

CHAPTER 368

PROBATE, TRUSTS, AND FIDUCIARIES

HOUSE BILL 00-1375

BY REPRESENTATIVES Kaufman, Coleman, Decker, Hefley, Mace, and S. Williams;
also SENATOR Lamborn.**AN ACT**CONCERNING THE ENACTMENT OF THE "COLORADO UNIFORM GUARDIANSHIP AND PROTECTIVE
PROCEEDINGS ACT".*Be it enacted by the General Assembly of the State of Colorado:***SECTION 1.** Parts 1, 2, 3, and 4 of article 14 of title 15, Colorado Revised Statutes, are REPEALED AND REENACTED, WITH AMENDMENTS, to read:**PART 1
GENERAL PROVISIONS****15-14-101. Short title.** PARTS 1 TO 4 OF THIS ARTICLE MAY BE CITED AS THE
"COLORADO UNIFORM GUARDIANSHIP AND PROTECTIVE PROCEEDINGS ACT".**15-14-102. Definitions.** IN PARTS 1 TO 4 OF THIS ARTICLE:

(1) "CLAIM", WITH RESPECT TO A PROTECTED PERSON, INCLUDES A CLAIM AGAINST AN INDIVIDUAL, WHETHER ARISING IN CONTRACT, TORT, OR OTHERWISE, AND A CLAIM AGAINST AN ESTATE WHICH ARISES AT OR AFTER THE APPOINTMENT OF A CONSERVATOR, INCLUDING EXPENSES OF ADMINISTRATION.

(2) "CONSERVATOR" MEANS A PERSON AT LEAST TWENTY-ONE YEARS OF AGE, RESIDENT OR NON-RESIDENT, WHO IS APPOINTED BY A COURT TO MANAGE THE ESTATE OF A PROTECTED PERSON. THE TERM INCLUDES A LIMITED CONSERVATOR.

(3) "COURT" MEANS THE COURT OR DIVISION THEREOF HAVING JURISDICTION IN MATTERS RELATING TO THE AFFAIRS OF DECEDENTS AND PROTECTED PERSONS. THIS COURT IS THE DISTRICT COURT, EXCEPT IN THE CITY AND COUNTY OF DENVER WHERE IT IS THE PROBATE COURT.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(4) "GUARDIAN" MEANS AN INDIVIDUAL AT LEAST TWENTY-ONE YEARS OF AGE, RESIDENT OR NON-RESIDENT, WHO HAS QUALIFIED AS A GUARDIAN OF A MINOR OR INCAPACITATED PERSON PURSUANT TO APPOINTMENT BY A PARENT OR BY THE COURT. THE TERM INCLUDES A LIMITED, EMERGENCY, AND TEMPORARY SUBSTITUTE GUARDIAN BUT NOT A GUARDIAN AD LITEM.

(5) "INCAPACITATED PERSON" MEANS AN INDIVIDUAL OTHER THAN A MINOR, WHO IS UNABLE TO EFFECTIVELY RECEIVE OR EVALUATE INFORMATION OR BOTH OR MAKE OR COMMUNICATE DECISIONS TO SUCH AN EXTENT THAT THE INDIVIDUAL LACKS THE ABILITY TO SATISFY ESSENTIAL REQUIREMENTS FOR PHYSICAL HEALTH, SAFETY, OR SELF-CARE, EVEN WITH APPROPRIATE AND REASONABLY AVAILABLE TECHNOLOGICAL ASSISTANCE.

(6) "LEGAL REPRESENTATIVE" INCLUDES A REPRESENTATIVE PAYEE, A GUARDIAN OR CONSERVATOR ACTING FOR A RESPONDENT IN THIS STATE OR ELSEWHERE, A TRUSTEE OR CUSTODIAN OF A TRUST OR CUSTODIANSHIP OF WHICH THE RESPONDENT IS A BENEFICIARY, OR AN AGENT DESIGNATED UNDER A POWER OF ATTORNEY, WHETHER FOR HEALTH CARE OR PROPERTY, IN WHICH THE RESPONDENT IS IDENTIFIED AS THE PRINCIPAL.

(7) "LETTERS" INCLUDES LETTERS OF GUARDIANSHIP OR LETTERS OF CONSERVATORSHIP.

(8) "MINOR" MEANS AN UNEMANCIPATED INDIVIDUAL WHO HAS NOT ATTAINED EIGHTEEN YEARS OF AGE.

(9) "PARENT" MEANS A PARENT WHOSE PARENTAL RIGHTS HAVE NOT BEEN TERMINATED.

(10) "PERSON" MEANS AN INDIVIDUAL, CORPORATION, BUSINESS TRUST, ESTATE, TRUST, PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION, JOINT VENTURE, GOVERNMENT, GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY, OR ANY OTHER LEGAL OR COMMERCIAL ENTITY.

(11) "PROTECTED PERSON" MEANS A MINOR OR OTHER INDIVIDUAL FOR WHOM A CONSERVATOR HAS BEEN APPOINTED OR OTHER PROTECTIVE ORDER HAS BEEN MADE.

(12) "RESPONDENT" MEANS AN INDIVIDUAL FOR WHOM THE APPOINTMENT OF A GUARDIAN OR CONSERVATOR OR OTHER PROTECTIVE ORDER IS SOUGHT.

(13) "STATE" MEANS A STATE OF THE UNITED STATES, THE DISTRICT OF COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN ISLANDS, OR ANY TERRITORY OR INSULAR POSSESSION SUBJECT TO THE JURISDICTION OF THE UNITED STATES.

(14) "TRIBE" MEANS AN INDIAN TRIBE OR BAND, OR ALASKAN NATIVE VILLAGE, WHICH IS RECOGNIZED BY FEDERAL LAW OR FORMALLY ACKNOWLEDGED BY A STATE.

(15) "WARD" MEANS AN INDIVIDUAL FOR WHOM A GUARDIAN HAS BEEN APPOINTED.

15-14-103. Reserved.

15-14-104. Facility of transfer. (1) UNLESS A PERSON REQUIRED TO TRANSFER MONEY OR PERSONAL PROPERTY TO A MINOR KNOWS THAT A CONSERVATOR HAS BEEN APPOINTED OR THAT A PROCEEDING FOR APPOINTMENT OF A CONSERVATOR OF THE ESTATE OF THE MINOR IS PENDING, THE PERSON MAY DO SO, AS TO AN AMOUNT OR VALUE NOT EXCEEDING TEN THOUSAND DOLLARS A YEAR OR THE THEN CURRENT ANNUAL GIFT TAX EXCLUSION AS STATED IN THE INTERNAL REVENUE CODE, WHICHEVER IS GREATER, BY TRANSFERRING IT TO:

(a) A PERSON WHO HAS THE CARE AND CUSTODY OF THE MINOR AND WITH WHOM THE MINOR RESIDES;

(b) A GUARDIAN OF THE MINOR;

(c) A CUSTODIAN UNDER THE "COLORADO UNIFORM TRANSFERS TO MINORS ACT", ARTICLE 50 OF TITLE 11, C.R.S., OR A CUSTODIAL TRUSTEE UNDER THE "COLORADO UNIFORM CUSTODIAL TRUST ACT", ARTICLE 1.5 OF THIS TITLE; OR

(d) A FINANCIAL INSTITUTION AS A DEPOSIT IN AN INTEREST-BEARING ACCOUNT OR CERTIFICATE IN THE SOLE NAME OF THE MINOR AND GIVING NOTICE OF THE DEPOSIT TO THE MINOR.

(2) A PERSON WHO TRANSFERS MONEY OR PROPERTY IN COMPLIANCE WITH THIS SECTION IS NOT RESPONSIBLE FOR ITS PROPER APPLICATION.

(3) A GUARDIAN OR OTHER PERSON WHO RECEIVES MONEY OR PROPERTY FOR A MINOR UNDER PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION OR SUBSECTION (2) OF THIS SECTION MAY ONLY APPLY IT TO THE SUPPORT, CARE, EDUCATION, HEALTH, AND WELFARE OF THE MINOR, AND MAY NOT DERIVE A PERSONAL FINANCIAL BENEFIT EXCEPT FOR REIMBURSEMENT FOR NECESSARY EXPENSES. ANY EXCESS MUST BE PRESERVED FOR THE FUTURE SUPPORT, CARE, EDUCATION, HEALTH, AND WELFARE OF THE MINOR, AND ANY BALANCE MUST BE TRANSFERRED TO THE MINOR UPON EMANCIPATION OR ATTAINING MAJORITY WITH AN ACCOUNTING OF ALL INCOME AND DISBURSEMENTS.

15-14-105. Delegation of power by parent or guardian. A PARENT OR GUARDIAN OF A MINOR OR INCAPACITATED PERSON, BY A POWER OF ATTORNEY, MAY DELEGATE TO ANOTHER PERSON, FOR A PERIOD NOT EXCEEDING TWELVE MONTHS, ANY POWER REGARDING CARE, CUSTODY, OR PROPERTY OF THE MINOR OR WARD, EXCEPT THE POWER TO CONSENT TO MARRIAGE OR ADOPTION.

15-14-106. Subject-matter jurisdiction. PARTS 1 TO 4 OF THIS ARTICLE APPLY TO, AND THE COURT HAS JURISDICTION OVER, GUARDIANSHIP AND RELATED PROCEEDINGS FOR INDIVIDUALS DOMICILED OR PRESENT IN THIS STATE, PROTECTIVE PROCEEDINGS FOR INDIVIDUALS DOMICILED IN OR HAVING PROPERTY LOCATED IN THIS STATE, AND PROPERTY COMING INTO THE CONTROL OF A GUARDIAN OR CONSERVATOR WHO IS SUBJECT TO THE LAWS OF THIS STATE. SUCH JURISDICTION IS SUBJECT TO THE PROVISIONS OF SECTION 19-1-104 (4) AND (5), C.R.S., WITH RESPECT TO GUARDIANSHIPS FOR CHILDREN UNDER THE "COLORADO CHILDREN'S CODE".

15-14-107. Transfer of jurisdiction. (1) AFTER THE APPOINTMENT OF A GUARDIAN OR CONSERVATOR OR ENTRY OF ANOTHER PROTECTIVE ORDER, THE COURT MAKING THE APPOINTMENT OR ENTERING THE ORDER MAY TRANSFER THE PROCEEDING TO A COURT IN ANOTHER COUNTY IN THIS STATE OR TO ANOTHER STATE IF THE COURT IS SATISFIED THAT A TRANSFER WILL SERVE THE BEST INTEREST OF THE WARD OR PROTECTED PERSON.

(2) IF A GUARDIANSHIP OR PROTECTIVE PROCEEDING IS PENDING IN ANOTHER STATE OR A FOREIGN COUNTRY AND A PETITION FOR GUARDIANSHIP OR PROTECTIVE PROCEEDING IS FILED IN A COURT IN THIS STATE, THE COURT IN THIS STATE SHALL NOTIFY THE ORIGINAL COURT AND, AFTER CONSULTATION WITH THE ORIGINAL COURT, ASSUME OR DECLINE JURISDICTION, WHICHEVER IS IN THE BEST INTEREST OF THE WARD OR PROTECTED PERSON.

(3) A GUARDIAN, CONSERVATOR, OR LIKE FIDUCIARY APPOINTED IN ANOTHER STATE MAY PETITION THE COURT FOR APPOINTMENT AS A GUARDIAN OR CONSERVATOR IN THIS STATE IF VENUE IN THIS STATE IS OR WILL BE ESTABLISHED. THE APPOINTMENT MAY BE MADE UPON PROOF OF APPOINTMENT IN THE OTHER STATE AND PRESENTATION OF A CERTIFIED COPY OF THE PORTION OF THE COURT RECORD IN THE OTHER STATE SPECIFIED BY THE COURT IN THIS STATE. NOTICE OF HEARING ON THE PETITION, TOGETHER WITH A COPY OF THE PETITION, MUST BE GIVEN TO THE WARD OR PROTECTED PERSON, IF THE WARD OR PROTECTED PERSON HAS ATTAINED TWELVE YEARS OF AGE, AND TO THE PERSONS WHO WOULD BE ENTITLED TO NOTICE IF THE REGULAR PROCEDURES FOR APPOINTMENT OF A GUARDIAN OR CONSERVATOR UNDER PARTS 1 TO 4 OF THIS ARTICLE WERE APPLICABLE. THE COURT SHALL MAKE THE APPOINTMENT IN THIS STATE UNLESS IT CONCLUDES THAT THE APPOINTMENT WOULD NOT BE IN THE BEST INTEREST OF THE WARD OR PROTECTED PERSON. UPON THE FILING OF AN ACCEPTANCE OF OFFICE AND ANY REQUIRED BOND, THE COURT SHALL ISSUE APPROPRIATE LETTERS OF GUARDIANSHIP OR CONSERVATORSHIP. WITHIN TEN DAYS AFTER AN APPOINTMENT, THE GUARDIAN OR CONSERVATOR SHALL SEND OR DELIVER A COPY OF THE ORDER OF APPOINTMENT TO THE WARD OR PROTECTED PERSON, IF THE WARD OR PROTECTED PERSON HAS ATTAINED TWELVE YEARS OF AGE, AND TO ALL PERSONS GIVEN NOTICE OF THE HEARING ON THE PETITION.

15-14-108. Venue. (1) VENUE FOR A GUARDIANSHIP PROCEEDING FOR A MINOR IS IN THE COUNTY OF THIS STATE IN WHICH THE MINOR RESIDES OR IS PRESENT AT THE TIME THE PROCEEDING IS COMMENCED.

(2) VENUE FOR A GUARDIANSHIP PROCEEDING FOR AN INCAPACITATED PERSON IS IN THE COUNTY OF THIS STATE IN WHICH THE RESPONDENT RESIDES AND, IF THE RESPONDENT HAS BEEN ADMITTED TO AN INSTITUTION BY ORDER OF A COURT OF COMPETENT JURISDICTION, IN THE COUNTY IN WHICH THE COURT IS LOCATED. VENUE FOR THE APPOINTMENT OF AN EMERGENCY OR A TEMPORARY SUBSTITUTE GUARDIAN OF AN INCAPACITATED PERSON IS ALSO IN THE COUNTY IN WHICH THE RESPONDENT IS PRESENT.

(3) VENUE FOR A PROTECTIVE PROCEEDING IS IN THE COUNTY OF THIS STATE IN WHICH THE RESPONDENT RESIDES, WHETHER OR NOT A GUARDIAN HAS BEEN APPOINTED IN ANOTHER PLACE OR, IF THE RESPONDENT DOES NOT RESIDE IN THIS STATE, IN ANY COUNTY OF THIS STATE IN WHICH PROPERTY OF THE RESPONDENT IS LOCATED.

(4) IF A PROCEEDING UNDER PARTS 1 TO 4 OF THIS ARTICLE IS BROUGHT IN MORE THAN ONE COUNTY IN THIS STATE, THE COURT OF THE COUNTY IN WHICH THE PROCEEDING IS FIRST BROUGHT HAS THE EXCLUSIVE RIGHT TO PROCEED UNLESS THAT COURT DETERMINES THAT VENUE IS PROPERLY IN ANOTHER COURT OR THAT THE INTERESTS OF JUSTICE OTHERWISE REQUIRE THAT THE PROCEEDING BE TRANSFERRED.

15-14-109. Practice in court - consolidation of proceedings. (1) EXCEPT AS OTHERWISE PROVIDED IN PARTS 1 TO 4 OF THIS ARTICLE, THE RULES OF CIVIL PROCEDURE AND THE COLORADO RULES OF PROBATE PROCEDURE, INCLUDING THE RULES CONCERNING APPELLATE REVIEW, GOVERN PROCEEDINGS UNDER PARTS 1 TO 4 OF THIS ARTICLE.

(2) IF GUARDIANSHIP AND PROTECTIVE PROCEEDINGS AS TO THE SAME INDIVIDUAL ARE COMMENCED OR PENDING IN THE SAME COURT, THE PROCEEDINGS MAY BE CONSOLIDATED.

15-14-110. Letters of office. UPON THE GUARDIAN'S FILING OF AN ACCEPTANCE OF OFFICE, THE COURT SHALL ISSUE APPROPRIATE LETTERS OF GUARDIANSHIP. UPON THE CONSERVATOR'S FILING OF AN ACCEPTANCE OF OFFICE AND ANY REQUIRED BOND, THE COURT SHALL ISSUE APPROPRIATE LETTERS OF CONSERVATORSHIP. LETTERS OF GUARDIANSHIP MUST INDICATE WHETHER THE GUARDIAN WAS APPOINTED BY THE COURT OR A PARENT. ANY LIMITATION ON THE POWERS OF A GUARDIAN OR CONSERVATOR OR OF THE ASSETS SUBJECT TO A CONSERVATORSHIP MUST BE ENDORSED ON THE GUARDIAN'S OR CONSERVATOR'S LETTERS.

15-14-111. Effect of acceptance of appointment. BY ACCEPTING APPOINTMENT, A GUARDIAN OR CONSERVATOR SUBMITS PERSONALLY TO THE JURISDICTION OF THE COURT IN ANY PROCEEDING RELATING TO THE GUARDIANSHIP OR CONSERVATORSHIP.

15-14-112. Termination of or change in guardian's or conservator's appointment. (1) THE APPOINTMENT OF A GUARDIAN OR CONSERVATOR TERMINATES UPON THE DEATH, RESIGNATION, OR REMOVAL OF THE GUARDIAN OR CONSERVATOR OR UPON TERMINATION OF THE GUARDIANSHIP OR CONSERVATORSHIP. A RESIGNATION OF A GUARDIAN OR CONSERVATOR IS EFFECTIVE WHEN APPROVED BY THE COURT. A PARENTAL APPOINTMENT AS GUARDIAN UNDER AN INFORMALLY PROBATED WILL TERMINATES IF THE WILL IS LATER DENIED PROBATE IN A FORMAL PROCEEDING. TERMINATION OF THE APPOINTMENT OF A GUARDIAN OR CONSERVATOR WITHOUT A DECREE OF DISCHARGE DOES NOT AFFECT THE LIABILITY OF EITHER FOR PREVIOUS ACTS OR THE OBLIGATION TO ACCOUNT FOR MONEY AND OTHER ASSETS OF THE WARD OR PROTECTED PERSON.

(2) A WARD, PROTECTED PERSON, OR PERSON INTERESTED IN THE WELFARE OF A WARD OR PROTECTED PERSON MAY PETITION FOR REMOVAL OF A GUARDIAN OR CONSERVATOR ON THE GROUND THAT REMOVAL WOULD BE IN THE BEST INTEREST OF THE WARD OR PROTECTED PERSON OR FOR OTHER GOOD CAUSE. A GUARDIAN OR CONSERVATOR MAY PETITION FOR PERMISSION TO RESIGN. A PETITION FOR REMOVAL OR PERMISSION TO RESIGN MAY INCLUDE A REQUEST FOR APPOINTMENT OF A SUCCESSOR GUARDIAN OR CONSERVATOR.

(3) THE COURT MAY APPOINT AN ADDITIONAL GUARDIAN OR CONSERVATOR AT ANY TIME, TO SERVE IMMEDIATELY OR UPON SOME OTHER DESIGNATED EVENT, AND MAY

APPOINT A SUCCESSOR GUARDIAN OR CONSERVATOR IN THE EVENT OF A VACANCY OR MAKE THE APPOINTMENT IN CONTEMPLATION OF A VACANCY, TO SERVE IF A VACANCY OCCURS. AN ADDITIONAL OR SUCCESSOR GUARDIAN OR CONSERVATOR MAY FILE AN ACCEPTANCE OF APPOINTMENT AT ANY TIME AFTER THE APPOINTMENT, BUT NOT LATER THAN THIRTY DAYS AFTER THE OCCURRENCE OF THE VACANCY OR OTHER DESIGNATED EVENT. THE ADDITIONAL OR SUCCESSOR GUARDIAN OR CONSERVATOR BECOMES ELIGIBLE TO ACT ON THE OCCURRENCE OF THE VACANCY OR DESIGNATED EVENT, OR THE FILING OF THE ACCEPTANCE OF APPOINTMENT, WHICHEVER OCCURS LAST. A SUCCESSOR GUARDIAN OR CONSERVATOR SUCCEEDS TO THE PREDECESSOR'S POWERS, AND A SUCCESSOR CONSERVATOR SUCCEEDS TO THE PREDECESSOR'S TITLE TO THE PROTECTED PERSON'S ASSETS.

15-14-113. Notice. (1) EXCEPT AS OTHERWISE ORDERED BY THE COURT FOR GOOD CAUSE, IF NOTICE OF A HEARING ON A PETITION IS REQUIRED, OTHER THAN A NOTICE FOR WHICH SPECIFIC REQUIREMENTS ARE OTHERWISE PROVIDED, THE PETITIONER SHALL GIVE NOTICE OF THE TIME AND PLACE OF THE HEARING TO THE PERSON TO BE NOTIFIED. NOTICE MUST BE GIVEN IN COMPLIANCE WITH COLORADO RULES OF PROBATE PROCEDURE, AT LEAST TEN DAYS BEFORE THE HEARING.

(2) PROOF OF NOTICE MUST BE MADE BEFORE OR AT THE HEARING AND FILED IN THE PROCEEDING.

(3) A NOTICE UNDER PARTS 1 TO 4 OF THIS ARTICLE MUST BE GIVEN IN PLAIN LANGUAGE.

15-14-114. Waiver of notice. A PERSON MAY WAIVE NOTICE BY A WRITING SIGNED BY THE PERSON OR THE PERSON'S ATTORNEY AND FILED IN THE PROCEEDING IN ACCORDANCE WITH COLORADO RULES OF PROBATE PROCEDURE. HOWEVER, A RESPONDENT, WARD, OR PROTECTED PERSON MAY NOT WAIVE NOTICE.

15-14-115. Guardian ad litem. AT ANY STAGE OF A PROCEEDING, A COURT MAY APPOINT A GUARDIAN AD LITEM IF THE COURT DETERMINES THAT REPRESENTATION OF THE INTEREST OTHERWISE WOULD BE INADEQUATE. IF NOT PRECLUDED BY A CONFLICT OF INTEREST, A GUARDIAN AD LITEM MAY BE APPOINTED TO REPRESENT SEVERAL INDIVIDUALS OR INTERESTS. THE COURT SHALL STATE ON THE RECORD THE DUTIES OF THE GUARDIAN AD LITEM AND ITS REASONS FOR THE APPOINTMENT.

15-14-116. Request for notice - interested persons. AN INTERESTED PERSON NOT OTHERWISE ENTITLED TO NOTICE WHO DESIRES TO BE NOTIFIED BEFORE ANY ORDER IS MADE IN A GUARDIANSHIP PROCEEDING, INCLUDING A PROCEEDING AFTER THE APPOINTMENT OF A GUARDIAN, OR IN A PROTECTIVE PROCEEDING, MAY FILE A REQUEST FOR NOTICE WITH THE CLERK OF THE COURT IN WHICH THE PROCEEDING IS PENDING IN ACCORDANCE WITH COLORADO RULES OF PROBATE PROCEDURE. THE CLERK SHALL SEND OR DELIVER A COPY OF THE REQUEST TO THE GUARDIAN AND TO THE CONSERVATOR IF ONE HAS BEEN APPOINTED. A REQUEST IS NOT EFFECTIVE UNLESS IT CONTAINS A STATEMENT SHOWING THE INTEREST OF THE PERSON MAKING IT AND THE ADDRESS OF THAT PERSON OR A LAWYER TO WHOM NOTICE IS TO BE GIVEN. THE REQUEST IS EFFECTIVE ONLY AS TO PROCEEDINGS CONDUCTED AFTER ITS FILING. A GOVERNMENTAL AGENCY PAYING OR PLANNING TO PAY BENEFITS TO THE RESPONDENT OR PROTECTED PERSON IS AN INTERESTED PERSON IN A PROTECTIVE PROCEEDING.

15-14-117. Multiple appointments or nominations. IF A RESPONDENT OR OTHER PERSON MAKES MORE THAN ONE WRITTEN APPOINTMENT OR NOMINATION OF A GUARDIAN OR A CONSERVATOR, THE MOST RECENT CONTROLS.

15-14-118. Small estate - person under disability - no personal representative. (1) ANY INTERESTED PERSON MAY FILE A VERIFIED PETITION FOR THE DISTRIBUTION WITHOUT ADMINISTRATION OF THE ESTATE OF A PERSON UNDER DISABILITY UNDER THE PROVISIONS OF THIS SECTION.

(2) SUCH PETITION SHALL STATE SO FAR AS KNOWN TO PETITIONER:

(a) THE NAME, DATE OF BIRTH, COUNTY, AND STATE OF RESIDENCE OF THE PERSON UNDER DISABILITY;

(b) IF THE PERSON UNDER DISABILITY IS A NONRESIDENT OF THE STATE, THAT HE OR SHE HAS A CHOSE IN ACTION OR OTHER PERSONAL PROPERTY WITHIN THE COUNTY WHICH MUST BE CONSERVED AND HAS NO GUARDIAN OR CONSERVATOR DETERMINED TO BE APPOINTED BY ANY COURT;

(c) IF MENTALLY ILL, MENTALLY DEFICIENT, OR DISABLED, THE DATE UPON WHICH, AND THE COURT BY WHICH THE PERSON UNDER DISABILITY WAS SO ADJUDGED;

(d) THE DESCRIPTION AND VALUE OF EACH CHOSE IN ACTION OR OTHER PERSONAL PROPERTY OWNED BY THE PERSON UNDER DISABILITY AND SUBJECT TO ADMINISTRATION AS A PART OF HIS OR HER ESTATE;

(e) THE NAME, ADDRESS, RELATIONSHIP, AND DATE OF BIRTH, IF A MINOR, OF EACH PERSON WHO WOULD INHERIT THE ESTATE OF THE PERSON UNDER DISABILITY IF THE PERSON UNDER DISABILITY WERE THEN DECEASED;

(f) THE NAME AND ADDRESS OF EACH PERSON WHO WOULD HAVE A CLAIM AGAINST THE ESTATE IF THE ESTATE WERE TO BE ADMINISTERED AND THE AMOUNT OF ANY SUCH CLAIM;

(g) THE NAME AND ADDRESS OF ANY PERSON OR INSTITUTION HAVING THE CARE AND CUSTODY OF THE PERSON UNDER DISABILITY AND THE POST-OFFICE ADDRESS OF THE PERSON UNDER DISABILITY.

(3) THE COURT MAY HEAR SUCH PETITION WITHOUT NOTICE OR UPON SUCH NOTICE AS THE COURT MAY DIRECT.

(4) IF THE COURT FINDS THAT THE TOTAL PERSONAL ESTATE OF THE PERSON UNDER DISABILITY SUBJECT TO ADMINISTRATION IS TEN THOUSAND DOLLARS, OR LESS, THAT NO CONSERVATOR FOR THE ESTATE HAS BEEN APPOINTED, AND THAT NO USEFUL PURPOSE WOULD BE SERVED BY THE APPOINTMENT OF A CONSERVATOR, THE COURT MAY ORDER THE PERSONAL ESTATE BE DISTRIBUTED WITHOUT THE APPOINTMENT OF A CONSERVATOR AS PROVIDED IN THIS SECTION.

(5) THE COURT SHALL DIRECT THE DISTRIBUTION OF SAID PERSONAL ESTATE AS THE COURT FINDS THE ESTATE WOULD BE DISTRIBUTED IN CASE OF ADMINISTRATION, THE CLAIMANTS BEING FIRST PAID IN THE ORDER OF THE CLASS OF THEIR CLAIMS. THE

COURT MAY ORDER THE DISTRIBUTION OF ANY SURPLUS TO THE PERSON UNDER DISABILITY, TO THE GUARDIAN OR CONSERVATOR OF PERSON UNDER DISABILITY, IF THE COURT HAS APPOINTED A GUARDIAN OR CONSERVATOR OR TO THE NEXT FRIEND APPOINTED BY THE COURT, OR AS OTHERWISE PROVIDED BY LAW FOR THE DISTRIBUTION OF PROPERTY TO PERSONS UNDER LEGAL DISABILITY. IF DISTRIBUTION TO A NEXT FRIEND IS ORDERED, THE COURT, IN ITS ORDER, MAY ATTACH SUCH CONDITIONS REGARDING BOND, REPORTS TO THE COURT, AND OTHERWISE AS IT MAY DEEM PROPER.

(6) THE ORDER OF COURT SHALL CONSTITUTE SUFFICIENT LEGAL AUTHORITY TO ANY PERSON OWING ANY MONEY, HAVING CUSTODY OF ANY PROPERTY, OR ACTING AS A REGISTRAR OR TRANSFER AGENT OF ANY EVIDENCE OF INTEREST, INDEBTEDNESS, PROPERTY, OR RIGHT BELONGING TO THE ESTATE, AND TO PERSONS PURCHASING OR OTHERWISE DEALING WITH THE ESTATE, FOR PAYMENT OR TRANSFER TO THE PERSONS DESCRIBED IN THE ORDER AS ENTITLED TO RECEIVE THE ESTATE WITHOUT ADMINISTRATION.

(7) ANYTIME WITHIN ONE MONTH AFTER THE MAKING OF AN ORDER PURSUANT TO THIS SECTION, ANY PERSON INTERESTED IN THE ESTATE MAY FILE A PETITION TO REVOKE THE SAME, ALLEGING THAT OTHER PERSONAL PROPERTY WAS NOT INCLUDED IN THE PETITION OR THAT THE PROPERTY DESCRIBED IN THE PETITION WAS IMPROPERLY VALUED, AND THAT IF SAID PROPERTY WERE ADDED, INCLUDED, OR PROPERLY VALUED AS THE CASE MAY BE, THE TOTAL VALUE OF THE PERSONAL PROPERTY WOULD EXCEED TEN THOUSAND DOLLARS, OR THAT THE ORDER ORDERED MONEY PAID OR PROPERTY DISTRIBUTED TO A PERSON NOT ENTITLED THERETO. UPON PROOF OF ANY SUCH GROUNDS, THE COURT SHALL REVOKE THE ORDER AND ENTER A MORE APPROPRIATE ORDER, BUT THE REVOCATION OR MODIFICATION OF SUCH ORDER SHALL NOT IMPOSE ANY LIABILITY UPON ANY PERSON WHO, IN RELIANCE UPON SUCH ORDER, IN GOOD FAITH, FOR VALUE, AND WITHOUT NOTICE, PAID MONEY OR DELIVERED PROPERTY, OR IMPAIR THE RIGHTS OF ANY PERSON WHO, IN RELIANCE ON SUCH ORDER, IN GOOD FAITH, FOR VALUE, AND WITHOUT NOTICE, PURCHASED PROPERTY OR ACQUIRED A LIEN ON PROPERTY.

(8) IF A NEXT FRIEND SHALL BE NAMED TO ENTER INTO THE SETTLEMENT OF A CLAIM OF A PERSON UNDER DISABILITY AGAINST ANOTHER PERSON FOR PERSONAL INJURY TO THE PERSON UNDER DISABILITY OR FOR INJURY TO HIS OR HER PROPERTY AND THE ENTIRE NET VALUE OF THE PERSONAL ESTATE OF THE PERSON UNDER DISABILITY, INCLUDING THE PROPOSED SETTLEMENT, AFTER PROVIDING FOR EXPENSES OF SETTLEMENT, IS TEN THOUSAND DOLLARS OR LESS, SUCH PROCEEDING FOR APPROVAL OF THE SETTLEMENT BY THE COURT MAY BE HAD IN CONNECTION WITH THE PETITION FOR THE DISPOSITION OF THE ESTATE OF THE PERSON UNDER DISABILITY, INCLUDING THE PROCEEDS OF THE SETTLEMENT, UNDER THIS SECTION, AND THE COURT MAY PROCEED WITH THE SETTLEMENT AS THOUGH A LEGAL GUARDIAN OR CONSERVATOR HAD BEEN APPOINTED AND MAY DISTRIBUTE THE NET PROCEEDS OF THE SETTLEMENT UNDER THE PROVISIONS OF THIS SECTION. THE NEXT FRIEND NAMED MAY EXECUTE RELEASES WITH THE SAME EFFECT AS THOUGH THEY HAD BEEN EXECUTED BY A DULY APPOINTED LEGAL GUARDIAN OR CONSERVATOR.

(9) FOR PURPOSES OF THIS SECTION, "PERSON UNDER DISABILITY" MEANS A PERSON FOR WHOM A PROTECTIVE PROCEEDING COULD BE INSTITUTED.

15-14-119. Notice to public institutions on appointment of guardian or conservator. WHEN ANY COURT SHALL APPOINT A CONSERVATOR OF THE ESTATE OF A PROTECTED PERSON OR A GUARDIAN OF AN INCAPACITATED PERSON COMMITTED TO OR RESIDING IN ANY PUBLIC INSTITUTION OF THIS STATE, THE COURT SHALL NOTIFY THE SUPERINTENDENT OR CHIEF ADMINISTRATIVE OFFICER OF SAID PUBLIC INSTITUTION OR, IF UNKNOWN, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES IN WRITING OF THE FACT OF SUCH APPOINTMENT, GIVING THE NAME AND ADDRESS OF THE CONSERVATOR OR GUARDIAN.

15-14-120. Uniform veterans' guardianship act not affected. IF ANY OF THE PROVISIONS OF PARTS 1 TO 4 OF THIS ARTICLE ARE INCONSISTENT WITH THE PROVISIONS OF PART 2 OF ARTICLE 5 OF TITLE 28, C.R.S., KNOWN AS THE "UNIFORM VETERANS' GUARDIANSHIP ACT", THE PROVISIONS OF THAT ACT SHALL PREVAIL WITH RESPECT TO FUNDS OR PROCEEDINGS SUBJECT THERETO.

15-14-121. Uniformity of application and construction. IN APPLYING AND CONSTRUING THIS UNIFORM ACT, CONSIDERATION MUST BE GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT TO ITS SUBJECT MATTER AMONG STATES THAT ENACT IT.

15-14-122. Severability clause. IF ANY PROVISION OF PARTS 1 TO 4 OF THIS ARTICLE OR ITS APPLICATION TO ANY PERSON OR CIRCUMSTANCES IS HELD INVALID, THE INVALIDITY DOES NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF PARTS 1 TO 4 OF THIS ARTICLE WHICH CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION, AND TO THIS END THE PROVISIONS OF PARTS 1 TO 4 OF THIS ARTICLE ARE SEVERABLE.

PART 2 GUARDIANSHIP OF MINOR

15-14-201. Appointment and status of guardian. A PERSON BECOMES A GUARDIAN OF A MINOR BY PARENTAL APPOINTMENT OR UPON APPOINTMENT BY THE COURT. THE GUARDIANSHIP CONTINUES UNTIL TERMINATED, WITHOUT REGARD TO THE LOCATION OF THE GUARDIAN OR MINOR WARD.

15-14-202. Parental appointment of guardian. (1) A GUARDIAN MAY BE APPOINTED BY WILL OR OTHER SIGNED WRITING BY A PARENT FOR ANY MINOR CHILD THE PARENT HAS OR MAY HAVE IN THE FUTURE. THE APPOINTMENT MAY SPECIFY THE DESIRED LIMITATIONS ON THE POWERS TO BE GIVEN TO THE GUARDIAN. THE APPOINTING PARENT MAY REVOKE OR AMEND THE APPOINTMENT BEFORE CONFIRMATION BY THE COURT.

(2) UPON PETITION OF AN APPOINTING PARENT AND A FINDING THAT THE APPOINTING PARENT WILL LIKELY BECOME UNABLE TO CARE FOR THE CHILD WITHIN TWO YEARS, AND AFTER NOTICE AS PROVIDED IN SECTION 15-14-205 (1), THE COURT, BEFORE THE APPOINTMENT BECOMES EFFECTIVE, MAY CONFIRM THE PARENT'S SELECTION OF A GUARDIAN AND TERMINATE THE RIGHTS OF OTHERS TO OBJECT.

(3) SUBJECT TO SECTION 15-14-203, THE APPOINTMENT OF A GUARDIAN BECOMES EFFECTIVE UPON THE APPOINTING PARENT'S DEATH, AN ADJUDICATION THAT THE PARENT IS AN INCAPACITATED PERSON, OR A WRITTEN DETERMINATION BY A

PHYSICIAN WHO HAS EXAMINED THE PARENT THAT THE PARENT IS NO LONGER ABLE TO CARE FOR THE CHILD, WHICHEVER OCCURS FIRST.

(4) THE GUARDIAN BECOMES ELIGIBLE TO ACT UPON THE FILING OF AN ACCEPTANCE OF APPOINTMENT, WHICH MUST BE FILED WITHIN THIRTY DAYS AFTER THE GUARDIAN'S APPOINTMENT BECOMES EFFECTIVE. THE GUARDIAN SHALL:

(a) FILE THE ACCEPTANCE OF APPOINTMENT AND A COPY OF THE WILL WITH THE COURT OF THE COUNTY IN WHICH THE WILL WAS OR COULD BE PROBATED OR, IN THE CASE OF ANOTHER APPOINTING INSTRUMENT, FILE THE ACCEPTANCE OF APPOINTMENT AND THE APPOINTING INSTRUMENT WITH THE COURT OF THE COUNTY IN WHICH THE MINOR RESIDES OR IS PRESENT; AND

(b) GIVE WRITTEN NOTICE OF THE ACCEPTANCE OF APPOINTMENT TO THE APPOINTING PARENT, IF LIVING, THE MINOR, IF THE MINOR HAS ATTAINED TWELVE YEARS OF AGE, AND A PERSON OTHER THAN THE PARENT HAVING CARE AND CUSTODY OF THE MINOR.

(5) UNLESS THE APPOINTMENT WAS PREVIOUSLY CONFIRMED BY THE COURT, THE NOTICE GIVEN UNDER PARAGRAPH (b) OF SUBSECTION (4) OF THIS SECTION MUST INCLUDE A STATEMENT OF THE RIGHT OF THOSE NOTIFIED TO TERMINATE THE APPOINTMENT BY FILING A WRITTEN OBJECTION IN THE COURT AS PROVIDED IN SECTION 15-14-203.

(6) UNLESS THE APPOINTMENT WAS PREVIOUSLY CONFIRMED BY THE COURT, WITHIN THIRTY DAYS AFTER FILING THE NOTICE AND THE APPOINTING INSTRUMENT, A GUARDIAN SHALL PETITION THE COURT FOR CONFIRMATION OF THE APPOINTMENT, GIVING NOTICE IN THE MANNER PROVIDED IN SECTION 15-14-205 (1).

(7) THE APPOINTMENT OF A GUARDIAN BY A PARENT DOES NOT SUPERSEDE THE PARENTAL RIGHTS OF EITHER PARENT. IF BOTH PARENTS ARE DEAD OR HAVE BEEN ADJUDGED INCAPACITATED PERSONS, AN APPOINTMENT BY THE LAST PARENT WHO DIED OR WAS ADJUDGED INCAPACITATED HAS PRIORITY. AN APPOINTMENT BY A PARENT WHICH IS EFFECTED BY FILING THE GUARDIAN'S ACCEPTANCE UNDER A WILL PROBATED IN THE STATE OF THE TESTATOR'S DOMICILE IS EFFECTIVE IN THIS STATE.

(8) THE POWERS OF A GUARDIAN WHO COMPLIES TIMELY WITH THE REQUIREMENTS OF SUBSECTIONS (4) AND (6) OF THIS SECTION RELATE BACK TO GIVE ACTS BY THE GUARDIAN WHICH ARE OF BENEFIT TO THE MINOR AND OCCURRED ON OR AFTER THE DATE THE APPOINTMENT BECAME EFFECTIVE THE SAME EFFECT AS THOSE THAT OCCURRED AFTER THE FILING OF THE ACCEPTANCE OF THE APPOINTMENT.

(9) THE AUTHORITY OF A GUARDIAN APPOINTED UNDER THIS SECTION TERMINATES UPON THE FIRST TO OCCUR OF THE APPOINTMENT OF A GUARDIAN BY THE COURT OR THE GIVING OF WRITTEN NOTICE TO THE GUARDIAN OF THE FILING OF AN OBJECTION PURSUANT TO SECTION 15-14-203.

15-14-203. Objection by minor or others to parental appointment. UNTIL THE COURT HAS CONFIRMED AN APPOINTEE UNDER SECTION 15-14-202, A MINOR WHO IS THE SUBJECT OF AN APPOINTMENT BY A PARENT AND WHO HAS ATTAINED TWELVE YEARS OF AGE, THE OTHER PARENT, OR A PERSON OTHER THAN A PARENT OR

GUARDIAN HAVING CARE OR CUSTODY OF THE MINOR MAY PREVENT OR TERMINATE THE APPOINTMENT AT ANY TIME BY FILING A WRITTEN OBJECTION IN THE COURT IN WHICH THE APPOINTING INSTRUMENT IS FILED AND GIVING NOTICE OF THE OBJECTION TO THE GUARDIAN AND ANY OTHER PERSONS ENTITLED TO NOTICE OF THE ACCEPTANCE OF THE APPOINTMENT. AN OBJECTION MAY BE WITHDRAWN, AND IF WITHDRAWN IS OF NO EFFECT. THE OBJECTION DOES NOT PRECLUDE JUDICIAL APPOINTMENT OF THE PERSON SELECTED BY THE PARENT. THE COURT MAY TREAT THE FILING OF AN OBJECTION AS A PETITION FOR THE APPOINTMENT OF AN EMERGENCY OR A TEMPORARY GUARDIAN UNDER SECTION 15-14-204, AND PROCEED ACCORDINGLY.

15-14-204. Judicial appointment of guardian - conditions for appointment.

(1) A MINOR OR A PERSON INTERESTED IN THE WELFARE OF A MINOR MAY PETITION FOR APPOINTMENT OF A GUARDIAN.

(2) THE COURT MAY APPOINT A GUARDIAN FOR A MINOR IF THE COURT FINDS THE APPOINTMENT IS IN THE MINOR'S BEST INTEREST, AND:

(a) THE PARENTS CONSENT;

(b) ALL PARENTAL RIGHTS HAVE BEEN TERMINATED; OR

(c) THE PARENTS ARE UNWILLING OR UNABLE TO EXERCISE THEIR PARENTAL RIGHTS.

(3) IF A GUARDIAN IS APPOINTED BY A PARENT PURSUANT TO SECTION 15-14-202 AND THE APPOINTMENT HAS NOT BEEN PREVENTED OR TERMINATED UNDER SECTION 15-14-203, THAT APPOINTEE HAS PRIORITY FOR APPOINTMENT. HOWEVER, THE COURT MAY PROCEED WITH ANOTHER APPOINTMENT UPON A FINDING THAT THE APPOINTEE UNDER SECTION 15-14-202 HAS FAILED TO ACCEPT THE APPOINTMENT WITHIN THIRTY DAYS AFTER NOTICE OF THE GUARDIANSHIP PROCEEDING.

(4) IF NECESSARY AND ON PETITION OR MOTION AND WHETHER OR NOT THE CONDITIONS OF SUBSECTION (2) HAVE BEEN ESTABLISHED, THE COURT MAY APPOINT A TEMPORARY GUARDIAN FOR A MINOR UPON A SHOWING THAT AN IMMEDIATE NEED EXISTS AND THAT THE APPOINTMENT WOULD BE IN THE BEST INTEREST OF THE MINOR. NOTICE IN THE MANNER PROVIDED IN SECTION 15-14-113 MUST BE GIVEN TO THE PARENTS AND TO A MINOR WHO HAS ATTAINED TWELVE YEARS OF AGE. EXCEPT AS OTHERWISE ORDERED BY THE COURT, THE TEMPORARY GUARDIAN HAS THE AUTHORITY OF AN UNLIMITED GUARDIAN, BUT THE DURATION OF THE TEMPORARY GUARDIANSHIP MAY NOT EXCEED SIX MONTHS. WITHIN FIVE DAYS AFTER THE APPOINTMENT, THE TEMPORARY GUARDIAN SHALL SEND OR DELIVER A COPY OF THE ORDER TO ALL INDIVIDUALS WHO WOULD BE ENTITLED TO NOTICE OF HEARING UNDER SECTION 15-14-205.

(5) IF THE COURT FINDS THAT FOLLOWING THE PROCEDURES OF THIS PART 2 WILL LIKELY RESULT IN SUBSTANTIAL HARM TO A MINOR'S HEALTH OR SAFETY AND THAT NO OTHER PERSON APPEARS TO HAVE AUTHORITY TO ACT IN THE CIRCUMSTANCES, THE COURT, ON APPROPRIATE PETITION, MAY APPOINT AN EMERGENCY GUARDIAN FOR THE MINOR. THE DURATION OF THE EMERGENCY GUARDIAN'S AUTHORITY MAY NOT EXCEED THIRTY DAYS AND THE EMERGENCY GUARDIAN MAY EXERCISE ONLY THE POWERS SPECIFIED IN THE ORDER. REASONABLE NOTICE OF THE TIME AND PLACE OF

A HEARING ON THE PETITION FOR APPOINTMENT OF AN EMERGENCY GUARDIAN MUST BE GIVEN TO THE MINOR, IF THE MINOR HAS ATTAINED TWELVE YEARS OF AGE, TO EACH LIVING PARENT OF THE MINOR, AND A PERSON HAVING CARE OR CUSTODY OF THE MINOR, IF OTHER THAN A PARENT. THE COURT MAY DISPENSE WITH THE NOTICE IF IT FINDS FROM AFFIDAVIT OR TESTIMONY THAT THE MINOR WILL BE SUBSTANTIALLY HARMED BEFORE A HEARING CAN BE HELD ON THE PETITION. IF THE EMERGENCY GUARDIAN IS APPOINTED WITHOUT NOTICE, NOTICE OF THE APPOINTMENT MUST BE GIVEN WITHIN FORTY-EIGHT HOURS AFTER THE APPOINTMENT AND A HEARING ON THE APPROPRIATENESS OF THE APPOINTMENT HELD WITHIN FIVE DAYS AFTER THE APPOINTMENT.

15-14-205. Judicial appointment of guardian - procedure. (1) AFTER A PETITION FOR APPOINTMENT OF A GUARDIAN IS FILED, THE COURT SHALL SCHEDULE A HEARING, AND THE PETITIONER SHALL GIVE NOTICE OF THE TIME AND PLACE OF THE HEARING, TOGETHER WITH A COPY OF THE PETITION, TO:

(a) THE MINOR, IF THE MINOR HAS ATTAINED TWELVE YEARS OF AGE AND IS NOT THE PETITIONER;

(b) ANY PERSON ALLEGED TO HAVE HAD THE PRIMARY CARE AND CUSTODY OF THE MINOR DURING THE SIXTY DAYS BEFORE THE FILING OF THE PETITION;

(c) EACH LIVING PARENT OF THE MINOR OR, IF THERE IS NONE, THE ADULT NEAREST IN KINSHIP THAT CAN BE FOUND;

(d) ANY PERSON NOMINATED AS GUARDIAN BY THE MINOR IF THE MINOR HAS ATTAINED TWELVE YEARS OF AGE;

(e) ANY APPOINTEE OF A PARENT WHOSE APPOINTMENT HAS NOT BEEN PREVENTED OR TERMINATED UNDER SECTION 15-14-203; AND

(f) ANY GUARDIAN OR CONSERVATOR CURRENTLY ACTING FOR THE MINOR IN THIS STATE OR ELSEWHERE.

(2) THE COURT, UPON HEARING, SHALL MAKE THE APPOINTMENT IF IT FINDS THAT A QUALIFIED PERSON SEEKS APPOINTMENT, VENUE IS PROPER, THE REQUIRED NOTICES HAVE BEEN GIVEN, THE CONDITIONS OF SECTION 15-14-204 (2) HAVE BEEN MET, AND THE BEST INTEREST OF THE MINOR WILL BE SERVED BY THE APPOINTMENT. IN OTHER CASES, THE COURT MAY DISMISS THE PROCEEDING OR MAKE ANY OTHER DISPOSITION OF THE MATTER THAT WILL SERVE THE BEST INTEREST OF THE MINOR.

(3) IF THE COURT DETERMINES AT ANY STAGE OF THE PROCEEDING, BEFORE OR AFTER APPOINTMENT, THAT THE INTERESTS OF THE MINOR ARE OR MAY BE INADEQUATELY REPRESENTED, IT MAY APPOINT A LAWYER TO REPRESENT THE MINOR, GIVING CONSIDERATION TO THE CHOICE OF THE MINOR IF THE MINOR HAS ATTAINED TWELVE YEARS OF AGE.

15-14-206. Judicial appointment of guardian - priority of minor's nominee - limited guardianship. (1) THE COURT SHALL APPOINT A GUARDIAN WHOSE APPOINTMENT WILL BE IN THE BEST INTEREST OF THE MINOR. THE COURT SHALL APPOINT A GUARDIAN NOMINATED BY THE MINOR, IF THE MINOR HAS ATTAINED

TWELVE YEARS OF AGE, UNLESS THE COURT FINDS THE APPOINTMENT WILL BE CONTRARY TO THE BEST INTEREST OF THE MINOR.

(2) IN THE INTEREST OF DEVELOPING SELF-RELIANCE OF A WARD OR FOR OTHER GOOD CAUSE, THE COURT, AT THE TIME OF APPOINTMENT OR LATER, ON ITS OWN MOTION OR ON MOTION OF THE MINOR WARD OR OTHER INTERESTED PERSON, MAY LIMIT THE POWERS OF A GUARDIAN OTHERWISE GRANTED BY THIS PART 2 AND THEREBY CREATE A LIMITED GUARDIANSHIP. FOLLOWING THE SAME PROCEDURE, THE COURT MAY GRANT ADDITIONAL POWERS OR WITHDRAW POWERS PREVIOUSLY GRANTED.

15-14-207. Duties of guardian. (1) EXCEPT AS OTHERWISE LIMITED BY THE COURT, A GUARDIAN OF A MINOR WARD HAS THE DUTIES AND RESPONSIBILITIES OF A PARENT REGARDING THE WARD'S SUPPORT, CARE, EDUCATION, HEALTH, AND WELFARE. A GUARDIAN SHALL ACT AT ALL TIMES IN THE WARD'S BEST INTEREST AND EXERCISE REASONABLE CARE, DILIGENCE, AND PRUDENCE.

(2) A GUARDIAN SHALL:

(a) BECOME OR REMAIN PERSONALLY ACQUAINTED WITH THE WARD AND MAINTAIN SUFFICIENT CONTACT WITH THE WARD TO KNOW OF THE WARD'S CAPACITIES, LIMITATIONS, NEEDS, OPPORTUNITIES, AND PHYSICAL AND MENTAL HEALTH;

(b) TAKE REASONABLE CARE OF THE WARD'S PERSONAL EFFECTS AND BRING A PROTECTIVE PROCEEDING IF NECESSARY TO PROTECT OTHER PROPERTY OF THE WARD;

(c) EXPEND MONEY OF THE WARD WHICH HAS BEEN RECEIVED BY THE GUARDIAN FOR THE WARD'S CURRENT NEEDS FOR SUPPORT, CARE, EDUCATION, HEALTH, AND WELFARE;

(d) CONSERVE ANY EXCESS MONEY OF THE WARD FOR THE WARD'S FUTURE NEEDS, BUT IF A CONSERVATOR HAS BEEN APPOINTED FOR THE ESTATE OF THE WARD, THE GUARDIAN SHALL PAY THE MONEY AT LEAST QUARTERLY TO THE CONSERVATOR TO BE CONSERVED FOR THE WARD'S FUTURE NEEDS;

(e) REPORT THE CONDITION OF THE WARD AND ACCOUNT FOR MONEY AND OTHER ASSETS IN THE GUARDIAN'S POSSESSION OR SUBJECT TO THE GUARDIAN'S CONTROL, AS ORDERED BY THE COURT ON APPLICATION OF ANY PERSON INTERESTED IN THE WARD'S WELFARE OR AS REQUIRED BY COURT RULE; AND

(f) INFORM THE COURT OF ANY CHANGE IN THE WARD'S CUSTODIAL DWELLING OR ADDRESS.

15-14-208. Powers of guardian. (1) EXCEPT AS OTHERWISE LIMITED BY THE COURT, A GUARDIAN OF A MINOR WARD HAS THE POWERS OF A PARENT REGARDING THE WARD'S SUPPORT, CARE, EDUCATION, HEALTH, AND WELFARE.

(2) A GUARDIAN MAY:

(a) APPLY FOR AND RECEIVE MONEY FOR THE SUPPORT OF THE WARD OTHERWISE PAYABLE TO THE WARD'S PARENT, GUARDIAN, OR CUSTODIAN UNDER THE TERMS OF

ANY STATUTORY SYSTEM OF BENEFITS OR INSURANCE OR ANY PRIVATE CONTRACT, DEVISE, TRUST, CONSERVATORSHIP, OR CUSTODIANSHIP;

(b) IF OTHERWISE CONSISTENT WITH THE TERMS OF ANY ORDER BY A COURT OF COMPETENT JURISDICTION RELATING TO CUSTODY OF THE WARD, TAKE CUSTODY OF THE WARD AND ESTABLISH THE WARD'S PLACE OF CUSTODIAL DWELLING, BUT MAY ONLY ESTABLISH OR MOVE THE WARD'S CUSTODIAL DWELLING OUTSIDE THE STATE UPON EXPRESS AUTHORIZATION OF THE COURT;

(c) IF A CONSERVATOR FOR THE ESTATE OF A WARD HAS NOT BEEN APPOINTED WITH EXISTING AUTHORITY, COMMENCE A PROCEEDING, INCLUDING AN ADMINISTRATIVE PROCEEDING, OR TAKE OTHER APPROPRIATE ACTION TO COMPEL A PERSON TO SUPPORT THE WARD OR TO PAY MONEY FOR THE BENEFIT OF THE WARD;

(d) CONSENT TO MEDICAL OR OTHER CARE, TREATMENT, OR SERVICE FOR THE WARD;

(e) CONSENT TO THE MARRIAGE OF THE WARD; AND

(f) IF REASONABLE UNDER ALL OF THE CIRCUMSTANCES, DELEGATE TO THE WARD CERTAIN RESPONSIBILITIES FOR DECISIONS AFFECTING THE WARD'S WELL-BEING.

(3) THE COURT MAY SPECIFICALLY AUTHORIZE THE GUARDIAN TO CONSENT TO THE ADOPTION OF THE WARD.

15-14-209. Rights and immunities of a guardian. (1) A GUARDIAN IS ENTITLED TO REASONABLE COMPENSATION FOR SERVICES AS GUARDIAN AND TO REIMBURSEMENT FOR ROOM AND BOARD PROVIDED BY THE GUARDIAN OR ONE WHO IS AFFILIATED WITH THE GUARDIAN, BUT ONLY AS APPROVED BY THE COURT. IF A CONSERVATOR, OTHER THAN THE GUARDIAN OR A PERSON WHO IS AFFILIATED WITH THE GUARDIAN, HAS BEEN APPOINTED FOR THE ESTATE OF THE WARD, REASONABLE COMPENSATION AND REIMBURSEMENT TO THE GUARDIAN MAY BE APPROVED AND PAID BY THE CONSERVATOR WITHOUT ORDER OF THE COURT.

(2) A GUARDIAN NEED NOT USE THE GUARDIAN'S PERSONAL FUNDS FOR THE WARD'S EXPENSES. A GUARDIAN IS NOT LIABLE TO A THIRD PERSON FOR ACTS OF THE WARD SOLELY BY REASON OF THE GUARDIANSHIP. A GUARDIAN IS NOT LIABLE FOR INJURY TO THE WARD RESULTING FROM THE NEGLIGENCE OR ACT OF A THIRD PERSON PROVIDING MEDICAL OR OTHER CARE, TREATMENT, OR SERVICE FOR THE WARD EXCEPT TO THE EXTENT THAT A PARENT WOULD BE LIABLE UNDER THE CIRCUMSTANCES.

15-14-210. Termination of guardianship - other proceedings after appointment. (1) A GUARDIANSHIP OF A MINOR TERMINATES UPON THE MINOR'S DEATH, ADOPTION, EMANCIPATION, OR ATTAINMENT OF MAJORITY OR AS ORDERED BY THE COURT.

(2) A WARD OR A PERSON INTERESTED IN THE WELFARE OF A WARD MAY PETITION FOR ANY ORDER THAT IS IN THE BEST INTEREST OF THE WARD. THE PETITIONER SHALL GIVE NOTICE OF THE HEARING ON THE PETITION TO THE WARD, IF THE WARD HAS ATTAINED TWELVE YEARS OF AGE AND IS NOT THE PETITIONER, THE GUARDIAN, AND

ANY OTHER PERSON AS ORDERED BY THE COURT.

PART 3
GUARDIANSHIP OF INCAPACITATED PERSON

15-14-301. Appointment and status of guardian. A PERSON BECOMES A GUARDIAN OF AN INCAPACITATED PERSON UPON APPOINTMENT BY THE COURT. THE GUARDIANSHIP CONTINUES UNTIL TERMINATED, WITHOUT REGARD TO THE LOCATION OF THE GUARDIAN OR WARD.

15-14-302. Reserved.

15-14-303. Reserved.

15-14-304. Judicial appointment of guardian - petition. (1) AN INDIVIDUAL OR A PERSON INTERESTED IN THE INDIVIDUAL'S WELFARE MAY PETITION FOR A DETERMINATION OF INCAPACITY, IN WHOLE OR IN PART, AND FOR THE APPOINTMENT OF A LIMITED OR UNLIMITED GUARDIAN FOR THE INDIVIDUAL.

(2) THE PETITION MUST SET FORTH THE PETITIONER'S NAME, RESIDENCE, CURRENT ADDRESS IF DIFFERENT, RELATIONSHIP TO THE RESPONDENT, AND INTEREST IN THE APPOINTMENT AND, TO THE EXTENT KNOWN, STATE OR CONTAIN THE FOLLOWING WITH RESPECT TO THE RESPONDENT AND THE RELIEF REQUESTED:

(a) THE RESPONDENT'S NAME, AGE, PRINCIPAL RESIDENCE, CURRENT STREET ADDRESS, AND, IF DIFFERENT, THE ADDRESS OF THE DWELLING IN WHICH IT IS PROPOSED THAT THE RESPONDENT WILL RESIDE IF THE APPOINTMENT IS MADE;

(b) (I) THE NAME AND ADDRESS OF THE RESPONDENT'S:

(A) SPOUSE, OR IF THE RESPONDENT HAS NONE, AN ADULT WITH WHOM THE RESPONDENT HAS RESIDED FOR MORE THAN SIX MONTHS WITHIN ONE YEAR BEFORE THE FILING OF THE PETITION; AND

(B) ADULT CHILDREN AND PARENTS; OR

(II) IF THE RESPONDENT HAS NEITHER SPOUSE, ADULT CHILD, NOR PARENT, AT LEAST ONE OF THE ADULTS NEAREST IN KINSHIP TO THE RESPONDENT WHO CAN BE FOUND WITH REASONABLE EFFORTS;

(c) THE NAME AND ADDRESS OF EACH PERSON RESPONSIBLE FOR CARE OR CUSTODY OF THE RESPONDENT, INCLUDING THE RESPONDENT'S TREATING PHYSICIAN;

(d) THE NAME AND ADDRESS OF EACH LEGAL REPRESENTATIVE OF THE RESPONDENT;

(e) THE NAME AND ADDRESS OF EACH PERSON NOMINATED AS GUARDIAN BY THE RESPONDENT;

(f) THE NAME AND ADDRESS OF EACH PROPOSED GUARDIAN AND THE REASON WHY THE PROPOSED GUARDIAN SHOULD BE SELECTED;

(g) THE REASON WHY GUARDIANSHIP IS NECESSARY, INCLUDING A BRIEF DESCRIPTION OF THE NATURE AND EXTENT OF THE RESPONDENT'S ALLEGED INCAPACITY;

(h) IF AN UNLIMITED GUARDIANSHIP IS REQUESTED, THE REASON WHY LIMITED GUARDIANSHIP IS INAPPROPRIATE AND, IF A LIMITED GUARDIANSHIP IS REQUESTED, THE POWERS TO BE GRANTED TO THE LIMITED GUARDIAN; AND

(i) A GENERAL STATEMENT OF THE RESPONDENT'S PROPERTY WITH AN ESTIMATE OF ITS VALUE, INCLUDING ANY INSURANCE OR PENSION, AND THE SOURCE AND AMOUNT OF ANY OTHER ANTICIPATED INCOME OR RECEIPTS.

15-14-305. Preliminaries to hearing. (1) UPON RECEIPT OF A PETITION TO ESTABLISH A GUARDIANSHIP, THE COURT SHALL SET A DATE AND TIME FOR HEARING THE PETITION AND APPOINT A VISITOR. THE DUTIES AND REPORTING REQUIREMENTS OF THE VISITOR ARE LIMITED TO THE RELIEF REQUESTED IN THE PETITION. THE VISITOR MUST BE A PERSON WHO HAS SUCH TRAINING AS THE COURT DEEMS APPROPRIATE.

(2) THE COURT SHALL APPOINT A LAWYER TO REPRESENT THE RESPONDENT IN THE PROCEEDING IF:

- (a) REQUESTED BY THE RESPONDENT;
- (b) RECOMMENDED BY THE VISITOR; OR
- (c) THE COURT DETERMINES THAT THE RESPONDENT NEEDS REPRESENTATION.

(3) THE VISITOR SHALL INTERVIEW THE RESPONDENT IN PERSON AND, TO THE EXTENT THAT THE RESPONDENT IS ABLE TO UNDERSTAND:

(a) EXPLAIN TO THE RESPONDENT THE SUBSTANCE OF THE PETITION, THE NATURE, PURPOSE, AND EFFECT OF THE PROCEEDING, THE RESPONDENT'S RIGHTS AT THE HEARING, AND THE GENERAL POWERS AND DUTIES OF A GUARDIAN;

(b) DETERMINE THE RESPONDENT'S VIEWS ABOUT THE PROPOSED GUARDIAN, THE PROPOSED GUARDIAN'S POWERS AND DUTIES, AND THE SCOPE AND DURATION OF THE PROPOSED GUARDIANSHIP;

(c) INFORM THE RESPONDENT OF THE RIGHT TO EMPLOY AND CONSULT WITH A LAWYER AT THE RESPONDENT'S OWN EXPENSE AND THE RIGHT TO REQUEST A COURT-APPOINTED LAWYER; AND

(d) INFORM THE RESPONDENT THAT ALL COSTS AND EXPENSES OF THE PROCEEDING, INCLUDING RESPONDENT'S ATTORNEY FEES, WILL BE PAID FROM THE RESPONDENT'S ESTATE UNLESS THE COURT DIRECTS OTHERWISE.

(4) IN ADDITION TO THE DUTIES IMPOSED BY SUBSECTION (3) OF THIS SECTION, THE VISITOR SHALL:

- (a) INTERVIEW THE PETITIONER AND THE PROPOSED GUARDIAN;

(b) VISIT THE RESPONDENT'S PRESENT DWELLING AND ANY DWELLING IN WHICH THE RESPONDENT WILL LIVE, IF KNOWN, IF THE APPOINTMENT IS MADE;

(c) OBTAIN INFORMATION FROM ANY PHYSICIAN OR OTHER PERSON WHO IS KNOWN TO HAVE TREATED, ADVISED, OR ASSESSED THE RESPONDENT'S RELEVANT PHYSICAL OR MENTAL CONDITION; AND

(d) MAKE ANY OTHER INVESTIGATION THE COURT DIRECTS.

(5) THE VISITOR SHALL PROMPTLY FILE A REPORT IN WRITING WITH THE COURT, WHICH MUST INCLUDE:

(a) A RECOMMENDATION AS TO WHETHER A LAWYER SHOULD BE APPOINTED TO REPRESENT THE RESPONDENT AND WHETHER A GUARDIAN AD LITEM SHOULD BE APPOINTED TO REPRESENT THE RESPONDENT'S BEST INTEREST;

(b) A SUMMARY OF DAILY FUNCTIONS THE RESPONDENT CAN MANAGE WITHOUT ASSISTANCE, COULD MANAGE WITH THE ASSISTANCE OF SUPPORTIVE SERVICES OR BENEFITS, INCLUDING USE OF APPROPRIATE TECHNOLOGICAL ASSISTANCE, AND CANNOT MANAGE;

(c) RECOMMENDATIONS REGARDING THE APPROPRIATENESS OF GUARDIANSHIP, INCLUDING WHETHER LESS RESTRICTIVE MEANS OF INTERVENTION ARE AVAILABLE, THE TYPE OF GUARDIANSHIP, AND, IF A LIMITED GUARDIANSHIP, THE POWERS TO BE GRANTED TO THE LIMITED GUARDIAN;

(d) A STATEMENT OF THE QUALIFICATIONS OF THE PROPOSED GUARDIAN, TOGETHER WITH A STATEMENT AS TO WHETHER THE RESPONDENT APPROVES OR DISAPPROVES OF:

(I) THE PROPOSED GUARDIAN;

(II) THE POWERS AND DUTIES PROPOSED; AND

(III) THE SCOPE OF THE GUARDIANSHIP;

(e) A STATEMENT AS TO WHETHER THE PROPOSED DWELLING MEETS THE RESPONDENT'S INDIVIDUAL NEEDS;

(f) A RECOMMENDATION AS TO WHETHER A PROFESSIONAL EVALUATION OR FURTHER EVALUATION IS NECESSARY; AND

(g) ANY OTHER MATTERS THE COURT DIRECTS.

15-14-306. Professional evaluation. (1) AT OR BEFORE A HEARING UNDER THIS PART 3, THE COURT MAY ORDER A PROFESSIONAL EVALUATION OF THE RESPONDENT AND SHALL ORDER THE EVALUATION IF THE RESPONDENT SO DEMANDS. IF THE COURT ORDERS THE EVALUATION, THE RESPONDENT MUST BE EXAMINED BY A PHYSICIAN, PSYCHOLOGIST, OR OTHER INDIVIDUAL APPOINTED BY THE COURT WHO IS QUALIFIED TO EVALUATE THE RESPONDENT'S ALLEGED IMPAIRMENT. THE EXAMINER SHALL PROMPTLY FILE A WRITTEN REPORT WITH THE COURT. UNLESS OTHERWISE DIRECTED BY THE COURT, THE REPORT MUST CONTAIN:

(a) A DESCRIPTION OF THE NATURE, TYPE, AND EXTENT OF THE RESPONDENT'S SPECIFIC COGNITIVE AND FUNCTIONAL LIMITATIONS, IF ANY;

(b) AN EVALUATION OF THE RESPONDENT'S MENTAL AND PHYSICAL CONDITION AND, IF APPROPRIATE, EDUCATIONAL POTENTIAL, ADAPTIVE BEHAVIOR, AND SOCIAL SKILLS;

(c) A PROGNOSIS FOR IMPROVEMENT AND A RECOMMENDATION AS TO THE APPROPRIATE TREATMENT OR HABILITATION PLAN; AND

(d) THE DATE OF ANY ASSESSMENT OR EXAMINATION UPON WHICH THE REPORT IS BASED.

15-14-307. Reserved.

15-14-308. Presence and rights at hearing. (1) UNLESS EXCUSED BY THE COURT FOR GOOD CAUSE, THE PROPOSED GUARDIAN SHALL ATTEND THE HEARING. THE RESPONDENT SHALL ATTEND THE HEARING, UNLESS EXCUSED BY THE COURT FOR GOOD CAUSE. THE RESPONDENT MAY PRESENT EVIDENCE AND SUBPOENA WITNESSES AND DOCUMENTS; EXAMINE WITNESSES, INCLUDING ANY COURT-APPOINTED PHYSICIAN, PSYCHOLOGIST, OR OTHER INDIVIDUAL QUALIFIED TO EVALUATE THE ALLEGED IMPAIRMENT, AND THE VISITOR; AND OTHERWISE PARTICIPATE IN THE HEARING. THE HEARING MAY BE HELD IN A MANNER THAT REASONABLY ACCOMMODATES THE RESPONDENT AND MAY BE CLOSED UPON THE REQUEST OF THE RESPONDENT OR UPON A SHOWING OF GOOD CAUSE, EXCEPT THAT THE HEARING MAY NOT BE CLOSED OVER THE OBJECTION OF THE RESPONDENT.

(2) ANY PERSON MAY REQUEST PERMISSION TO PARTICIPATE IN THE PROCEEDING. THE COURT MAY GRANT THE REQUEST, WITH OR WITHOUT HEARING, UPON DETERMINING THAT THE BEST INTEREST OF THE RESPONDENT WILL BE SERVED. THE COURT MAY ATTACH APPROPRIATE CONDITIONS TO THE PARTICIPATION.

(3) THE PETITIONER SHALL MAKE EVERY REASONABLE EFFORT TO SECURE THE RESPONDENT'S ATTENDANCE AT THE HEARING.

15-14-309. Notice. (1) A COPY OF A PETITION FOR GUARDIANSHIP AND NOTICE OF THE HEARING ON THE PETITION MUST BE SERVED PERSONALLY ON THE RESPONDENT. THE NOTICE MUST INCLUDE A STATEMENT THAT THE RESPONDENT MUST BE PHYSICALLY PRESENT UNLESS EXCUSED BY THE COURT, INFORM THE RESPONDENT OF THE RESPONDENT'S RIGHTS AT THE HEARING, AND INCLUDE A DESCRIPTION OF THE NATURE, PURPOSE, AND CONSEQUENCES OF AN APPOINTMENT. A FAILURE TO SERVE THE RESPONDENT WITH A NOTICE SUBSTANTIALLY COMPLYING WITH THIS SUBSECTION (1) IS JURISDICTIONAL AND THUS PRECLUDES THE COURT FROM GRANTING THE PETITION.

(2) IN A PROCEEDING TO ESTABLISH A GUARDIANSHIP, A COPY OF THE PETITION FOR GUARDIANSHIP AND NOTICE OF THE HEARING MEETING THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION MUST BE GIVEN TO THE PERSONS LISTED IN THE PETITION. FAILURE TO GIVE NOTICE UNDER THIS SUBSECTION (2) IS NOT JURISDICTIONAL AND THUS DOES NOT PRECLUDE THE APPOINTMENT OF A GUARDIAN OR THE MAKING OF A PROTECTIVE ORDER.

(3) NOTICE OF THE HEARING ON A PETITION FOR AN ORDER AFTER APPOINTMENT OF A GUARDIAN, TOGETHER WITH A COPY OF THE PETITION, MUST BE GIVEN TO THE WARD, THE GUARDIAN, AND ANY OTHER PERSON THE COURT DIRECTS.

(4) A GUARDIAN SHALL GIVE NOTICE OF THE FILING OF THE GUARDIAN'S REPORT, TOGETHER WITH A COPY OF THE REPORT, TO THE WARD AND ANY OTHER PERSON THE COURT DIRECTS. THE NOTICE MUST BE DELIVERED OR SENT WITHIN TEN DAYS AFTER THE FILING OF THE REPORT.

15-14-310. Who may be guardian - priorities - prohibition of dual roles.

(1) SUBJECT TO SUBSECTION (4) OF THIS SECTION, THE COURT IN APPOINTING A GUARDIAN SHALL CONSIDER PERSONS OTHERWISE QUALIFIED IN THE FOLLOWING ORDER OF PRIORITY:

(a) A GUARDIAN, OTHER THAN A TEMPORARY OR EMERGENCY GUARDIAN, CURRENTLY ACTING FOR THE RESPONDENT IN THIS STATE OR ELSEWHERE;

(b) A PERSON NOMINATED AS GUARDIAN BY THE RESPONDENT, INCLUDING THE RESPONDENT'S SPECIFIC NOMINATION OF A GUARDIAN MADE IN A DURABLE POWER OF ATTORNEY;

(c) AN AGENT APPOINTED BY THE RESPONDENT UNDER A MEDICAL DURABLE POWER OF ATTORNEY PURSUANT TO SECTION 15-14-506;

(d) AN AGENT APPOINTED BY THE RESPONDENT UNDER A GENERAL DURABLE POWER OF ATTORNEY;

(e) THE SPOUSE OF THE RESPONDENT OR A PERSON NOMINATED BY WILL OR OTHER SIGNED WRITING OF A DECEASED SPOUSE;

(f) AN ADULT CHILD OF THE RESPONDENT;

(g) A PARENT OF THE RESPONDENT OR AN INDIVIDUAL NOMINATED BY WILL OR OTHER SIGNED WRITING OF A DECEASED PARENT; AND

(h) AN ADULT WITH WHOM THE RESPONDENT HAS RESIDED FOR MORE THAN SIX MONTHS IMMEDIATELY BEFORE THE FILING OF THE PETITION.

(2) A RESPONDENT'S NOMINATION OR APPOINTMENT OF A GUARDIAN SHALL CREATE PRIORITY FOR THE NOMINEE OR APPOINTEE ONLY IF, AT THE TIME OF NOMINATION OR APPOINTMENT, THE RESPONDENT HAD SUFFICIENT CAPACITY TO EXPRESS A PREFERENCE.

(3) WITH RESPECT TO PERSONS HAVING EQUAL PRIORITY, THE COURT SHALL SELECT THE ONE IT CONSIDERS BEST QUALIFIED. THE COURT, FOR GOOD CAUSE SHOWN, MAY DECLINE TO APPOINT A PERSON HAVING PRIORITY AND APPOINT A PERSON HAVING A LOWER PRIORITY OR NO PRIORITY.

(4) AN OWNER, OPERATOR, OR EMPLOYEE OF A LONG-TERM-CARE PROVIDER FROM WHICH THE RESPONDENT IS RECEIVING CARE MAY NOT BE APPOINTED AS GUARDIAN UNLESS RELATED TO THE RESPONDENT BY BLOOD, MARRIAGE, OR ADOPTION.

(5) (a) UNLESS THE COURT MAKES SPECIFIC FINDINGS FOR GOOD CAUSE SHOWN, THE SAME PROFESSIONAL MAY NOT ACT AS AN INCAPACITATED PERSON'S OR A PROTECTED PERSON'S:

- (I) GUARDIAN AND CONSERVATOR; OR
- (II) GUARDIAN AND DIRECT SERVICE PROVIDER; OR
- (III) CONSERVATOR AND DIRECT SERVICE PROVIDER.

(b) IN ADDITION, A GUARDIAN OR CONSERVATOR MAY NOT EMPLOY THE SAME PERSON TO ACT AS BOTH CARE MANAGER AND DIRECT SERVICE PROVIDER FOR THE INCAPACITATED PERSON OR PROTECTED PERSON.

15-14-311. Findings - order of appointment. (1) THE COURT MAY:

(a) APPOINT A LIMITED OR UNLIMITED GUARDIAN FOR A RESPONDENT ONLY IF IT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT:

- (I) THE RESPONDENT IS AN INCAPACITATED PERSON; AND
- (II) THE RESPONDENT'S IDENTIFIED NEEDS CANNOT BE MET BY LESS RESTRICTIVE MEANS, INCLUDING USE OF APPROPRIATE AND REASONABLY AVAILABLE TECHNOLOGICAL ASSISTANCE; OR

(b) WITH APPROPRIATE FINDINGS, TREAT THE PETITION AS ONE FOR A PROTECTIVE ORDER UNDER SECTION 15-14-401, ENTER ANY OTHER APPROPRIATE ORDER, OR DISMISS THE PROCEEDING.

(2) THE COURT, WHENEVER FEASIBLE, SHALL GRANT TO A GUARDIAN ONLY THOSE POWERS NECESSITATED BY THE WARD'S LIMITATIONS AND DEMONSTRATED NEEDS AND MAKE APPOINTIVE AND OTHER ORDERS THAT WILL ENCOURAGE THE DEVELOPMENT OF THE WARD'S MAXIMUM SELF-RELIANCE AND INDEPENDENCE.

(3) WITHIN THIRTY DAYS AFTER AN APPOINTMENT, A GUARDIAN SHALL SEND OR DELIVER TO THE WARD AND TO ALL OTHER PERSONS GIVEN NOTICE OF THE HEARING ON THE PETITION A COPY OF THE ORDER OF APPOINTMENT, TOGETHER WITH A NOTICE OF THE RIGHT TO REQUEST TERMINATION OR MODIFICATION.

15-14-312. Emergency guardian. (1) IF THE COURT FINDS THAT COMPLIANCE WITH THE PROCEDURES OF THIS PART 3 WILL LIKELY RESULT IN SUBSTANTIAL HARM TO THE RESPONDENT'S HEALTH, SAFETY, OR WELFARE, AND THAT NO OTHER PERSON APPEARS TO HAVE AUTHORITY AND WILLINGNESS TO ACT IN THE CIRCUMSTANCES, THE COURT, ON PETITION BY A PERSON INTERESTED IN THE RESPONDENT'S WELFARE, MAY APPOINT AN EMERGENCY GUARDIAN WHOSE AUTHORITY MAY NOT EXCEED SIXTY DAYS AND WHO MAY EXERCISE ONLY THE POWERS SPECIFIED IN THE ORDER. IMMEDIATELY UPON APPOINTMENT OF AN EMERGENCY GUARDIAN, THE COURT SHALL APPOINT A LAWYER TO REPRESENT THE RESPONDENT THROUGHOUT THE EMERGENCY GUARDIANSHIP. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION, REASONABLE NOTICE OF THE TIME AND PLACE OF A HEARING ON THE PETITION MUST BE GIVEN TO THE RESPONDENT AND ANY OTHER PERSONS AS THE

COURT DIRECTS.

(2) AN EMERGENCY GUARDIAN MAY BE APPOINTED WITHOUT NOTICE TO THE RESPONDENT AND THE RESPONDENT'S LAWYER ONLY IF THE COURT FINDS FROM TESTIMONY THAT THE RESPONDENT WILL BE SUBSTANTIALLY HARMED IF THE APPOINTMENT IS DELAYED. IF NOT PRESENT AT THE HEARING, THE RESPONDENT MUST BE GIVEN NOTICE OF THE APPOINTMENT WITHIN FORTY-EIGHT HOURS AFTER THE APPOINTMENT. THE COURT SHALL HOLD A HEARING ON THE APPROPRIATENESS OF THE APPOINTMENT WITHIN TEN DAYS AFTER THE COURT'S RECEIPT OF SUCH A REQUEST.

(3) APPOINTMENT OF AN EMERGENCY GUARDIAN, WITH OR WITHOUT NOTICE, IS NOT A DETERMINATION OF THE RESPONDENT'S INCAPACITY.

(4) THE COURT MAY REMOVE AN EMERGENCY GUARDIAN OR MODIFY THE POWERS GRANTED AT ANY TIME. AN EMERGENCY GUARDIAN SHALL MAKE ANY REPORT THE COURT REQUIRES. IN OTHER RESPECTS, THE PROVISIONS OF PARTS 1 TO 4 OF THIS ARTICLE CONCERNING GUARDIANS APPLY TO AN EMERGENCY GUARDIAN.

15-14-313. Temporary substitute guardian. (1) IF THE COURT FINDS THAT A GUARDIAN IS NOT EFFECTIVELY PERFORMING THE GUARDIAN'S DUTIES AND THAT THE WELFARE OF THE WARD REQUIRES IMMEDIATE ACTION, IT MAY APPOINT A TEMPORARY SUBSTITUTE GUARDIAN FOR THE WARD FOR A SPECIFIED PERIOD NOT EXCEEDING SIX MONTHS. EXCEPT AS OTHERWISE ORDERED BY THE COURT, A TEMPORARY SUBSTITUTE GUARDIAN SO APPOINTED HAS THE POWERS SET FORTH IN THE PREVIOUS ORDER OF APPOINTMENT. THE AUTHORITY OF ANY UNLIMITED OR LIMITED GUARDIAN PREVIOUSLY APPOINTED BY THE COURT IS SUSPENDED AS LONG AS A TEMPORARY SUBSTITUTE GUARDIAN HAS AUTHORITY. IF AN APPOINTMENT IS MADE WITHOUT PREVIOUS NOTICE TO THE WARD, THE AFFECTED GUARDIAN, AND OTHER INTERESTED PERSONS, THE TEMPORARY SUBSTITUTE GUARDIAN, WITHIN FIVE DAYS AFTER THE APPOINTMENT, SHALL INFORM THEM OF THE APPOINTMENT.

(2) THE COURT MAY REMOVE A TEMPORARY SUBSTITUTE GUARDIAN OR MODIFY THE POWERS GRANTED AT ANY TIME. A TEMPORARY SUBSTITUTE GUARDIAN SHALL MAKE ANY REPORT THE COURT REQUIRES. IN OTHER RESPECTS, THE PROVISIONS OF PARTS 1 TO 4 OF THIS ARTICLE CONCERNING GUARDIANS APPLY TO A TEMPORARY SUBSTITUTE GUARDIAN.

15-14-314. Duties of guardian. (1) EXCEPT AS OTHERWISE LIMITED BY THE COURT, A GUARDIAN SHALL MAKE DECISIONS REGARDING THE WARD'S SUPPORT, CARE, EDUCATION, HEALTH, AND WELFARE. A GUARDIAN SHALL EXERCISE AUTHORITY ONLY AS NECESSITATED BY THE WARD'S LIMITATIONS AND, TO THE EXTENT POSSIBLE, SHALL ENCOURAGE THE WARD TO PARTICIPATE IN DECISIONS, ACT ON THE WARD'S OWN BEHALF, AND DEVELOP OR REGAIN THE CAPACITY TO MANAGE THE WARD'S PERSONAL AFFAIRS. A GUARDIAN, IN MAKING DECISIONS, SHALL CONSIDER THE EXPRESSED DESIRES AND PERSONAL VALUES OF THE WARD TO THE EXTENT KNOWN TO THE GUARDIAN. A GUARDIAN, AT ALL TIMES, SHALL ACT IN THE WARD'S BEST INTEREST AND EXERCISE REASONABLE CARE, DILIGENCE, AND PRUDENCE.

(2) A GUARDIAN SHALL:

(a) BECOME OR REMAIN PERSONALLY ACQUAINTED WITH THE WARD AND MAINTAIN

SUFFICIENT CONTACT WITH THE WARD TO KNOW OF THE WARD'S CAPACITIES, LIMITATIONS, NEEDS, OPPORTUNITIES, AND PHYSICAL AND MENTAL HEALTH;

(b) TAKE REASONABLE CARE OF THE WARD'S PERSONAL EFFECTS AND BRING PROTECTIVE PROCEEDINGS IF NECESSARY TO PROTECT THE PROPERTY OF THE WARD;

(c) EXPEND MONEY OF THE WARD THAT HAS BEEN RECEIVED BY THE GUARDIAN FOR THE WARD'S CURRENT NEEDS FOR SUPPORT, CARE, EDUCATION, HEALTH, AND WELFARE;

(d) CONSERVE ANY EXCESS MONEY OF THE WARD FOR THE WARD'S FUTURE NEEDS, BUT IF A CONSERVATOR HAS BEEN APPOINTED FOR THE ESTATE OF THE WARD, THE GUARDIAN SHALL PAY THE MONEY TO THE CONSERVATOR, AT LEAST QUARTERLY, TO BE CONSERVED FOR THE WARD'S FUTURE NEEDS;

(e) IMMEDIATELY NOTIFY THE COURT IF THE WARD'S CONDITION HAS CHANGED SO THAT THE WARD IS CAPABLE OF EXERCISING RIGHTS PREVIOUSLY REMOVED;

(f) INFORM THE COURT OF ANY CHANGE IN THE WARD'S CUSTODIAL DWELLING OR ADDRESS; AND

(g) IMMEDIATELY NOTIFY THE COURT IN WRITING OF THE WARD'S DEATH.

15-14-315. Powers of guardian. (1) SUBJECT TO THE LIMITATIONS SET FORTH IN SECTION 15-14-316 AND EXCEPT AS OTHERWISE LIMITED BY THE COURT, A GUARDIAN MAY:

(a) APPLY FOR AND RECEIVE MONEY PAYABLE TO THE WARD OR THE WARD'S GUARDIAN OR CUSTODIAN FOR THE SUPPORT OF THE WARD UNDER THE TERMS OF ANY STATUTORY SYSTEM OF BENEFITS OR INSURANCE OR ANY PRIVATE CONTRACT, DEVISE, TRUST, CONSERVATORSHIP, OR CUSTODIANSHIP;

(b) IF OTHERWISE CONSISTENT WITH THE TERMS OF ANY ORDER BY A COURT OF COMPETENT JURISDICTION RELATING TO CUSTODY OF THE WARD, TAKE CUSTODY OF THE WARD AND ESTABLISH THE WARD'S PLACE OF CUSTODIAL DWELLING, BUT MAY ONLY ESTABLISH OR MOVE THE WARD'S PLACE OF DWELLING OUTSIDE THIS STATE UPON EXPRESS AUTHORIZATION OF THE COURT;

(c) IF A CONSERVATOR FOR THE ESTATE OF THE WARD HAS NOT BEEN APPOINTED WITH EXISTING AUTHORITY, COMMENCE A PROCEEDING, INCLUDING AN ADMINISTRATIVE PROCEEDING, OR TAKE OTHER APPROPRIATE ACTION TO COMPEL A PERSON TO SUPPORT THE WARD OR TO PAY MONEY FOR THE BENEFIT OF THE WARD;

(d) CONSENT TO MEDICAL OR OTHER CARE, TREATMENT, OR SERVICE FOR THE WARD; AND

(e) IF REASONABLE UNDER ALL OF THE CIRCUMSTANCES, DELEGATE TO THE WARD CERTAIN RESPONSIBILITIES FOR DECISIONS AFFECTING THE WARD'S WELL-BEING.

(2) THE COURT MAY SPECIFICALLY AUTHORIZE OR DIRECT THE GUARDIAN TO CONSENT TO THE ADOPTION OR MARRIAGE OF THE WARD.

15-14-315.5. Dissolution of marriage and legal separation. (1) THE GUARDIAN MAY PETITION THE COURT FOR AUTHORITY TO COMMENCE AND MAINTAIN AN ACTION FOR DISSOLUTION OF MARRIAGE OR LEGAL SEPARATION ON BEHALF OF THE WARD. THE COURT MAY GRANT SUCH AUTHORITY ONLY IF SATISFIED, AFTER NOTICE AND HEARING, THAT:

(a) IT IS IN THE BEST INTEREST OF THE WARD BASED ON EVIDENCE OF ABANDONMENT, ABUSE, EXPLOITATION, OR OTHER COMPELLING CIRCUMSTANCES, AND THE WARD EITHER IS INCAPABLE OF CONSENTING; OR

(b) THE WARD HAS CONSENTED TO THE PROPOSED DISSOLUTION OF MARRIAGE OR LEGAL SEPARATION.

(2) NOTHING IN THIS SECTION SHALL BE CONSTRUED AS MODIFYING THE STATUTORY GROUNDS FOR DISSOLUTION OF MARRIAGE AND LEGAL SEPARATION AS SET FORTH IN SECTION 14-10-106, C.R.S.

15-14-316. Rights and immunities of guardian - limitations. (1) A GUARDIAN IS ENTITLED TO REASONABLE COMPENSATION FOR SERVICES AS GUARDIAN AND TO REIMBURSEMENT FOR ROOM AND BOARD PROVIDED BY THE GUARDIAN OR ONE WHO IS AFFILIATED WITH THE GUARDIAN, BUT ONLY AS APPROVED BY ORDER OF THE COURT. IF A CONSERVATOR, OTHER THAN THE GUARDIAN OR ONE WHO IS AFFILIATED WITH THE GUARDIAN, HAS BEEN APPOINTED FOR THE ESTATE OF THE WARD, REASONABLE COMPENSATION AND REIMBURSEMENT TO THE GUARDIAN MAY BE APPROVED AND PAID BY THE CONSERVATOR WITHOUT ORDER OF THE COURT.

(2) A GUARDIAN NEED NOT USE THE GUARDIAN'S PERSONAL FUNDS FOR THE WARD'S EXPENSES. A GUARDIAN IS NOT LIABLE TO A THIRD PERSON FOR ACTS OF THE WARD SOLELY BY REASON OF THE RELATIONSHIP. A GUARDIAN WHO EXERCISES REASONABLE CARE IN CHOOSING A THIRD PERSON PROVIDING MEDICAL OR OTHER CARE, TREATMENT, OR SERVICE FOR THE WARD IS NOT LIABLE FOR INJURY TO THE WARD RESULTING FROM THE NEGLIGENT OR WRONGFUL CONDUCT OF THE THIRD PARTY.

(3) A GUARDIAN, WITHOUT AUTHORIZATION OF THE COURT, MAY NOT REVOKE A MEDICAL DURABLE POWER OF ATTORNEY MADE PURSUANT TO SECTION 15-14-506 OF WHICH THE WARD IS THE PRINCIPAL. IF A MEDICAL DURABLE POWER OF ATTORNEY MADE PURSUANT TO SECTION 15-14-506 IS IN EFFECT, ABSENT AN ORDER OF THE COURT TO THE CONTRARY, A HEALTH-CARE DECISION OF THE AGENT TAKES PRECEDENCE OVER THAT OF A GUARDIAN.

(4) A GUARDIAN MAY NOT INITIATE THE COMMITMENT OF A WARD TO A MENTAL HEALTH-CARE INSTITUTION OR FACILITY EXCEPT IN ACCORDANCE WITH THE STATE'S PROCEDURE FOR INVOLUNTARY CIVIL COMMITMENT. TO OBTAIN HOSPITAL OR INSTITUTIONAL CARE AND TREATMENT FOR MENTAL ILLNESS OF A WARD, A GUARDIAN SHALL PROCEED AS PROVIDED UNDER ARTICLE 10 OF TITLE 27, C.R.S. TO OBTAIN CARE AND TREATMENT FROM AN APPROVED SERVICE AGENCY AS DEFINED IN SECTION 27-10.5-102, C.R.S., FOR A WARD WITH DEVELOPMENTAL DISABILITIES, A GUARDIAN SHALL PROCEED UNDER ARTICLE 10.5 OF TITLE 27, C.R.S. TO OBTAIN CARE AND TREATMENT FOR ALCOHOLISM OR SUBSTANCE ABUSE, A GUARDIAN SHALL PROCEED AS PROVIDED UNDER PART 2 OF ARTICLE 1 OF TITLE 25, C.R.S. NO GUARDIAN SHALL

HAVE THE AUTHORITY TO CONSENT TO ANY SUCH CARE OR TREATMENT AGAINST THE WILL OF THE WARD.

15-14-317. Reports - monitoring of guardianship. (1) WITHIN SIXTY DAYS AFTER APPOINTMENT OR AS OTHERWISE DIRECTED BY THE COURT, A GUARDIAN SHALL REPORT TO THE COURT IN WRITING ON THE CONDITION OF THE WARD, THE GUARDIAN'S PERSONAL CARE PLAN FOR THE WARD, AND ACCOUNT FOR MONEY AND OTHER ASSETS IN THE GUARDIAN'S POSSESSION OR SUBJECT TO THE GUARDIAN'S CONTROL. A GUARDIAN SHALL REPORT AT LEAST ANNUALLY THEREAFTER AND WHENEVER ORDERED BY THE COURT. THE ANNUAL REPORT MUST STATE OR CONTAIN:

- (a) THE CURRENT MENTAL, PHYSICAL, AND SOCIAL CONDITION OF THE WARD;
 - (b) THE LIVING ARRANGEMENTS FOR ALL ADDRESSES OF THE WARD DURING THE REPORTING PERIOD;
 - (c) THE MEDICAL, EDUCATIONAL, VOCATIONAL, AND OTHER SERVICES PROVIDED TO THE WARD AND THE GUARDIAN'S OPINION AS TO THE ADEQUACY OF THE WARD'S CARE;
 - (d) A SUMMARY OF THE GUARDIAN'S VISITS WITH THE WARD AND ACTIVITIES ON THE WARD'S BEHALF AND THE EXTENT TO WHICH THE WARD HAS PARTICIPATED IN DECISION-MAKING;
 - (e) WHETHER THE GUARDIAN CONSIDERS THE CURRENT PLAN FOR CARE, TREATMENT, OR HABILITATION TO BE IN THE WARD'S BEST INTEREST;
 - (f) PLANS FOR FUTURE CARE; AND
 - (g) A RECOMMENDATION AS TO THE NEED FOR CONTINUED GUARDIANSHIP AND ANY RECOMMENDED CHANGES IN THE SCOPE OF THE GUARDIANSHIP.
- (2) THE COURT MAY APPOINT A VISITOR TO REVIEW A REPORT, INTERVIEW THE WARD OR GUARDIAN, AND MAKE ANY OTHER INVESTIGATION THE COURT DIRECTS.
- (3) THE COURT SHALL ESTABLISH A SYSTEM FOR MONITORING GUARDIANSHIPS, INCLUDING THE FILING AND REVIEW OF ANNUAL REPORTS.

15-14-318. Termination or modification of guardianship - resignation or removal of guardian. (1) A GUARDIANSHIP TERMINATES UPON THE DEATH OF THE WARD OR UPON ORDER OF THE COURT.

(2) ON PETITION OF A WARD, A GUARDIAN, OR ANOTHER PERSON INTERESTED IN THE WARD'S WELFARE, THE COURT SHALL TERMINATE A GUARDIANSHIP IF THE WARD NO LONGER MEETS THE STANDARD FOR ESTABLISHING THE GUARDIANSHIP. THE COURT MAY MODIFY THE TYPE OF APPOINTMENT OR POWERS GRANTED TO THE GUARDIAN IF THE EXTENT OF PROTECTION OR ASSISTANCE PREVIOUSLY GRANTED IS CURRENTLY EXCESSIVE OR INSUFFICIENT OR THE WARD'S CAPACITY TO PROVIDE FOR SUPPORT, CARE, EDUCATION, HEALTH, AND WELFARE HAS SO CHANGED AS TO WARRANT THAT ACTION.

(3) EXCEPT AS OTHERWISE ORDERED BY THE COURT FOR GOOD CAUSE, THE COURT, BEFORE TERMINATING A GUARDIANSHIP, SHALL FOLLOW THE SAME PROCEDURES TO SAFEGUARD THE RIGHTS OF THE WARD AS APPLY TO A PETITION FOR GUARDIANSHIP.

(4) THE COURT MAY REMOVE A GUARDIAN OR PERMIT THE GUARDIAN TO RESIGN AS SET FORTH IN SECTION 15-14-112.

PART 4 PROTECTION OF PROPERTY OF PROTECTED PERSON

15-14-401. Protective proceeding. (1) UPON PETITION AND AFTER NOTICE AND HEARING, THE COURT MAY APPOINT A LIMITED OR UNLIMITED CONSERVATOR OR MAKE ANY OTHER PROTECTIVE ORDER PROVIDED IN THIS PART 4 IN RELATION TO THE ESTATE AND AFFAIRS OF:

(a) A MINOR, IF THE COURT DETERMINES THAT THE MINOR OWNS MONEY OR PROPERTY REQUIRING MANAGEMENT OR PROTECTION THAT CANNOT OTHERWISE BE PROVIDED OR HAS OR MAY HAVE BUSINESS AFFAIRS THAT MAY BE PUT AT RISK OR PREVENTED BECAUSE OF THE MINOR'S AGE, OR THAT MONEY IS NEEDED FOR SUPPORT AND EDUCATION AND THAT PROTECTION IS NECESSARY OR DESIRABLE TO OBTAIN OR PROVIDE MONEY; OR

(b) ANY INDIVIDUAL, INCLUDING A MINOR, IF THE COURT DETERMINES THAT, FOR REASONS OTHER THAN AGE:

(I) BY CLEAR AND CONVINCING EVIDENCE, THE INDIVIDUAL IS UNABLE TO MANAGE PROPERTY AND BUSINESS AFFAIRS BECAUSE THE INDIVIDUAL IS UNABLE TO EFFECTIVELY RECEIVE OR EVALUATE INFORMATION OR BOTH OR TO MAKE OR COMMUNICATE DECISIONS, EVEN WITH THE USE OF APPROPRIATE AND REASONABLY AVAILABLE TECHNOLOGICAL ASSISTANCE, OR BECAUSE THE INDIVIDUAL IS MISSING, DETAINED, OR UNABLE TO RETURN TO THE UNITED STATES; AND

(II) BY A PREPONDERANCE OF EVIDENCE, THE INDIVIDUAL HAS PROPERTY THAT WILL BE WASTED OR DISSIPATED UNLESS MANAGEMENT IS PROVIDED OR MONEY IS NEEDED FOR THE SUPPORT, CARE, EDUCATION, HEALTH, AND WELFARE OF THE INDIVIDUAL OR OF INDIVIDUALS WHO ARE ENTITLED TO THE INDIVIDUAL'S SUPPORT AND THAT PROTECTION IS NECESSARY OR DESIRABLE TO OBTAIN OR PROVIDE MONEY.

15-14-402. Jurisdiction over business affairs of protected person. (1) AFTER THE SERVICE OF NOTICE IN A PROCEEDING SEEKING A CONSERVATORSHIP OR OTHER PROTECTIVE ORDER AND UNTIL TERMINATION OF THE PROCEEDING, THE COURT IN WHICH THE PETITION IS FILED HAS:

(a) EXCLUSIVE JURISDICTION TO DETERMINE THE NEED FOR A CONSERVATORSHIP OR OTHER PROTECTIVE ORDER;

(b) EXCLUSIVE JURISDICTION TO DETERMINE HOW THE ESTATE OF THE PROTECTED PERSON WHICH IS SUBJECT TO THE LAWS OF THIS STATE MUST BE MANAGED, EXPENDED, OR DISTRIBUTED TO OR FOR THE USE OF THE PROTECTED PERSON, INDIVIDUALS WHO ARE IN FACT DEPENDENT UPON THE PROTECTED PERSON, OR OTHER CLAIMANTS; AND

(c) CONCURRENT JURISDICTION TO DETERMINE THE VALIDITY OF CLAIMS AGAINST THE PERSON OR ESTATE OF THE PROTECTED PERSON AND QUESTIONS OF TITLE CONCERNING ASSETS OF THE ESTATE.

15-14-403. Original petition for appointment or protective order. (1) THE FOLLOWING MAY PETITION FOR THE APPOINTMENT OF A CONSERVATOR OR FOR ANY OTHER APPROPRIATE PROTECTIVE ORDER:

(a) THE PERSON TO BE PROTECTED;

(b) AN INDIVIDUAL INTERESTED IN THE ESTATE, AFFAIRS, OR WELFARE OF THE PERSON TO BE PROTECTED, INCLUDING A PARENT, GUARDIAN, OR CUSTODIAN; OR

(c) A PERSON WHO WOULD BE ADVERSELY AFFECTED BY LACK OF EFFECTIVE MANAGEMENT OF THE PROPERTY AND BUSINESS AFFAIRS OF THE PERSON TO BE PROTECTED.

(2) A PETITION UNDER SUBSECTION (1) OF THIS SECTION MUST SET FORTH THE PETITIONER'S NAME, RESIDENCE, CURRENT ADDRESS IF DIFFERENT, RELATIONSHIP TO THE RESPONDENT, AND INTEREST IN THE APPOINTMENT OR OTHER PROTECTIVE ORDER, AND, TO THE EXTENT KNOWN, STATE OR CONTAIN THE FOLLOWING WITH RESPECT TO THE RESPONDENT AND THE RELIEF REQUESTED:

(a) THE RESPONDENT'S NAME, AGE, PRINCIPAL RESIDENCE, CURRENT STREET ADDRESS, AND, IF DIFFERENT, THE ADDRESS OF THE DWELLING WHERE IT IS PROPOSED THAT THE RESPONDENT WILL RESIDE IF THE APPOINTMENT IS MADE;

(b) IF THE PETITION ALLEGES IMPAIRMENT IN THE RESPONDENT'S ABILITY TO EFFECTIVELY RECEIVE AND EVALUATE INFORMATION, A BRIEF DESCRIPTION OF THE NATURE AND EXTENT OF THE RESPONDENT'S ALLEGED IMPAIRMENT;

(c) IF THE PETITION ALLEGES THAT THE RESPONDENT IS MISSING, DETAINED, OR UNABLE TO RETURN TO THE UNITED STATES, A STATEMENT OF THE RELEVANT CIRCUMSTANCES, INCLUDING THE TIME AND NATURE OF THE DISAPPEARANCE OR DETENTION AND A DESCRIPTION OF ANY SEARCH OR INQUIRY CONCERNING THE RESPONDENT'S WHEREABOUTS;

(d) (I) THE NAME AND ADDRESS OF THE RESPONDENT'S:

(A) SPOUSE OR, IF THE RESPONDENT HAS NONE, AN ADULT WITH WHOM THE RESPONDENT HAS RESIDED FOR MORE THAN SIX MONTHS WITHIN ONE YEAR BEFORE THE FILING OF THE PETITION; AND

(B) ADULT CHILDREN AND PARENTS; OR

(II) IF THE RESPONDENT HAS NEITHER SPOUSE, ADULT CHILD, NOR PARENT, AT LEAST ONE OF THE ADULTS NEAREST IN KINSHIP TO THE RESPONDENT WHO CAN BE FOUND WITH REASONABLE EFFORTS;

(e) THE NAME AND ADDRESS OF EACH PERSON RESPONSIBLE FOR CARE OR CUSTODY OF THE RESPONDENT, INCLUDING THE RESPONDENT'S TREATING PHYSICIAN;

(f) THE NAME AND ADDRESS OF EACH LEGAL REPRESENTATIVE OF THE RESPONDENT;

(g) A GENERAL STATEMENT OF THE RESPONDENT'S PROPERTY WITH AN ESTIMATE OF ITS VALUE, INCLUDING ANY INSURANCE OR PENSION, AND THE SOURCE AND AMOUNT OF OTHER ANTICIPATED INCOME OR RECEIPTS; AND

(h) THE REASON WHY A CONSERVATORSHIP OR OTHER PROTECTIVE ORDER IS IN THE BEST INTEREST OF THE RESPONDENT.

(3) IF A CONSERVATORSHIP IS REQUESTED, THE PETITION MUST ALSO SET FORTH TO THE EXTENT KNOWN:

(a) THE NAME AND ADDRESS OF EACH PROPOSED CONSERVATOR AND THE REASON WHY THE PROPOSED CONSERVATOR SHOULD BE SELECTED;

(b) THE NAME AND ADDRESS OF EACH PERSON NOMINATED AS CONSERVATOR BY THE RESPONDENT IF THE RESPONDENT HAS ATTAINED TWELVE YEARS OF AGE; AND

(c) THE TYPE OF CONSERVATORSHIP REQUESTED AND, IF AN UNLIMITED CONSERVATORSHIP, THE REASON WHY LIMITED CONSERVATORSHIP IS INAPPROPRIATE OR, IF A LIMITED CONSERVATORSHIP, THE PROPERTY TO BE PLACED UNDER THE CONSERVATOR'S CONTROL AND ANY LIMITATION ON THE CONSERVATOR'S POWERS AND DUTIES.

15-14-404. Notice. (1) A COPY OF THE PETITION AND THE NOTICE OF HEARING ON A PETITION FOR CONSERVATORSHIP OR OTHER PROTECTIVE ORDER MUST BE SERVED PERSONALLY ON THE RESPONDENT, BUT IF THE RESPONDENT'S WHEREABOUTS IS UNKNOWN OR PERSONAL SERVICE CANNOT BE MADE, SERVICE ON THE RESPONDENT MUST BE MADE BY SUBSTITUTED SERVICE OR PUBLICATION. THE NOTICE MUST INCLUDE A STATEMENT THAT THE RESPONDENT MUST BE PHYSICALLY PRESENT UNLESS EXCUSED BY THE COURT, INFORM THE RESPONDENT OF THE RESPONDENT'S RIGHTS AT THE HEARING, AND, IF THE APPOINTMENT OF A CONSERVATOR IS REQUESTED, INCLUDE A DESCRIPTION OF THE NATURE, PURPOSE, AND CONSEQUENCES OF AN APPOINTMENT. A FAILURE TO SERVE THE RESPONDENT WITH A NOTICE SUBSTANTIALLY COMPLYING WITH THIS SUBSECTION (1) IS JURISDICTIONAL AND THUS PRECLUDES THE COURT FROM GRANTING THE PETITION.

(2) IN A PROCEEDING TO ESTABLISH A CONSERVATORSHIP OR FOR ANOTHER PROTECTIVE ORDER, NOTICE OF THE HEARING MUST BE GIVEN TO THE PERSONS LISTED IN THE PETITION. FAILURE TO GIVE NOTICE UNDER THIS SUBSECTION (2) DOES NOT PRECLUDE THE APPOINTMENT OF A CONSERVATOR OR THE MAKING OF ANOTHER PROTECTIVE ORDER.

(3) NOTICE OF THE HEARING ON A PETITION FOR AN ORDER AFTER APPOINTMENT OF A CONSERVATOR OR MAKING OF ANOTHER PROTECTIVE ORDER, TOGETHER WITH A COPY OF THE PETITION, MUST BE GIVEN TO THE PROTECTED PERSON, IF THE PROTECTED PERSON HAS ATTAINED TWELVE YEARS OF AGE AND IS NOT MISSING, DETAINED, OR UNABLE TO RETURN TO THE UNITED STATES, ANY CONSERVATOR OF THE PROTECTED PERSON'S ESTATE, AND ANY OTHER PERSON AS ORDERED BY THE COURT.

(4) A CONSERVATOR SHALL GIVE NOTICE OF THE FILING OF THE CONSERVATOR'S INVENTORY, REPORT, OR PLAN OF CONSERVATORSHIP, TOGETHER WITH A COPY OF THE INVENTORY, REPORT, OR PLAN OF CONSERVATORSHIP TO THE PROTECTED PERSON AND ANY OTHER PERSON THE COURT DIRECTS. THE NOTICE MUST BE DELIVERED OR SENT WITHIN TEN DAYS AFTER THE FILING OF THE INVENTORY, REPORT, OR PLAN OF CONSERVATORSHIP.

15-14-405. Original petition - minors - preliminaries to hearing. (1) UPON THE FILING OF A PETITION TO ESTABLISH A CONSERVATORSHIP OR FOR ANOTHER PROTECTIVE ORDER FOR THE REASON THAT THE RESPONDENT IS A MINOR, THE COURT SHALL SET A DATE FOR HEARING. IF THE COURT DETERMINES AT ANY STAGE OF THE PROCEEDING THAT THE INTERESTS OF THE MINOR ARE OR MAY BE INADEQUATELY REPRESENTED, IT MAY APPOINT A LAWYER TO REPRESENT THE MINOR, GIVING CONSIDERATION TO THE CHOICE OF THE MINOR IF THE MINOR HAS ATTAINED TWELVE YEARS OF AGE.

(2) WHILE A PETITION TO ESTABLISH A CONSERVATORSHIP OR FOR ANOTHER PROTECTIVE ORDER IS PENDING, AFTER PRELIMINARY HEARING AND WITHOUT NOTICE TO OTHERS, THE COURT MAY MAKE ORDERS TO PRESERVE AND APPLY THE PROPERTY OF THE MINOR AS MAY BE REQUIRED FOR THE SUPPORT OF THE MINOR OR INDIVIDUALS WHO ARE IN FACT DEPENDENT UPON THE MINOR. THE COURT MAY APPOINT A SPECIAL CONSERVATOR TO ASSIST IN THAT TASK.

15-14-406. Original petition - persons under disability - preliminaries to hearing. (1) UPON THE FILING OF A PETITION FOR A CONSERVATORSHIP OR OTHER PROTECTIVE ORDER FOR A RESPONDENT FOR REASONS OTHER THAN BEING A MINOR, THE COURT SHALL SET A DATE FOR HEARING. THE COURT SHALL APPOINT A VISITOR UNLESS THE PETITION DOES NOT REQUEST THE APPOINTMENT OF A CONSERVATOR AND THE RESPONDENT IS REPRESENTED BY A LAWYER. THE DUTIES AND REPORTING REQUIREMENTS OF THE VISITOR ARE LIMITED TO THE RELIEF REQUESTED IN THE PETITION. THE VISITOR MUST BE A PERSON WHO HAS SUCH TRAINING OR EXPERIENCE AS THE COURT DEEMS APPROPRIATE.

(2) THE COURT SHALL APPOINT A LAWYER TO REPRESENT THE RESPONDENT IN THE PROCEEDING IF:

- (a) REQUESTED BY THE RESPONDENT;
- (b) RECOMMENDED BY THE VISITOR; OR
- (c) THE COURT DETERMINES THAT THE RESPONDENT NEEDS REPRESENTATION.

(3) THE VISITOR SHALL INTERVIEW THE RESPONDENT IN PERSON AND, TO THE EXTENT THAT THE RESPONDENT IS ABLE TO UNDERSTAND:

(a) EXPLAIN TO THE RESPONDENT THE SUBSTANCE OF THE PETITION AND THE NATURE, PURPOSE, AND EFFECT OF THE PROCEEDING;

(b) IF THE APPOINTMENT OF A CONSERVATOR IS REQUESTED, INFORM THE RESPONDENT OF THE GENERAL POWERS AND DUTIES OF A CONSERVATOR AND DETERMINE THE RESPONDENT'S VIEWS REGARDING THE PROPOSED CONSERVATOR, THE

PROPOSED CONSERVATOR'S POWERS AND DUTIES, AND THE SCOPE AND DURATION OF THE PROPOSED CONSERVATORSHIP;

(c) INFORM THE RESPONDENT OF THE RESPONDENT'S RIGHTS, INCLUDING THE RIGHT TO EMPLOY AND CONSULT WITH A LAWYER AT THE RESPONDENT'S OWN EXPENSE, AND THE RIGHT TO REQUEST A COURT-APPOINTED LAWYER; AND

(d) INFORM THE RESPONDENT THAT ALL COSTS AND EXPENSES OF THE PROCEEDING, INCLUDING RESPONDENT'S ATTORNEY FEES, WILL BE PAID FROM THE RESPONDENT'S ESTATE UNLESS THE COURT DIRECTS OTHERWISE.

(4) IN ADDITION TO THE DUTIES IMPOSED BY SUBSECTION (3) OF THIS SECTION, THE VISITOR SHALL:

(a) INTERVIEW THE PETITIONER AND THE PROPOSED CONSERVATOR, IF ANY; AND

(b) MAKE ANY OTHER INVESTIGATION THE COURT DIRECTS.

(5) THE VISITOR SHALL PROMPTLY FILE A REPORT WITH THE COURT, WHICH MUST INCLUDE:

(a) A RECOMMENDATION AS TO WHETHER A LAWYER SHOULD BE APPOINTED TO REPRESENT THE RESPONDENT AND WHETHER A GUARDIAN AD LITEM SHOULD BE APPOINTED TO REPRESENT THE RESPONDENT'S BEST INTEREST;

(b) RECOMMENDATIONS REGARDING THE APPROPRIATENESS OF A CONSERVATORSHIP, INCLUDING WHETHER LESS RESTRICTIVE MEANS OF INTERVENTION ARE AVAILABLE, THE TYPE OF CONSERVATORSHIP, AND, IF A LIMITED CONSERVATORSHIP, THE POWERS AND DUTIES TO BE GRANTED THE LIMITED CONSERVATOR, AND THE ASSETS OVER WHICH THE CONSERVATOR SHOULD BE GRANTED AUTHORITY;

(c) A STATEMENT OF THE QUALIFICATIONS OF THE PROPOSED CONSERVATOR, TOGETHER WITH A STATEMENT AS TO WHETHER THE RESPONDENT APPROVES OR DISAPPROVES OF:

(I) THE PROPOSED CONSERVATOR;

(II) THE POWERS AND DUTIES PROPOSED; AND

(III) THE SCOPE OF THE CONSERVATORSHIP;

(d) A RECOMMENDATION AS TO WHETHER A PROFESSIONAL EVALUATION OR FURTHER EVALUATION IS NECESSARY; AND

(e) ANY OTHER MATTERS THE COURT DIRECTS.

(6) THE COURT MAY ALSO APPOINT A PHYSICIAN, PSYCHOLOGIST, OR OTHER INDIVIDUAL QUALIFIED TO EVALUATE THE ALLEGED IMPAIRMENT TO CONDUCT AN EXAMINATION OF THE RESPONDENT.

(7) WHILE A PETITION TO ESTABLISH A CONSERVATORSHIP OR FOR ANOTHER PROTECTIVE ORDER IS PENDING, AFTER PRELIMINARY HEARING AND WITHOUT NOTICE TO OTHERS, THE COURT MAY ISSUE ORDERS TO PRESERVE AND APPLY THE PROPERTY OF THE RESPONDENT AS MAY BE REQUIRED FOR THE SUPPORT OF THE RESPONDENT OR INDIVIDUALS WHO ARE IN FACT DEPENDENT UPON THE RESPONDENT. THE COURT MAY APPOINT A SPECIAL CONSERVATOR TO ASSIST IN THAT TASK.

15-14-407. Reserved.

15-14-408. Original petition - procedure at hearing. (1) UNLESS EXCUSED BY THE COURT FOR GOOD CAUSE, A PROPOSED CONSERVATOR SHALL ATTEND THE HEARING. THE RESPONDENT SHALL ATTEND THE HEARING, UNLESS EXCUSED BY THE COURT FOR GOOD CAUSE. THE RESPONDENT MAY PRESENT EVIDENCE AND SUBPOENA WITNESSES AND DOCUMENTS, EXAMINE WITNESSES, INCLUDING ANY COURT-APPOINTED PHYSICIAN, PSYCHOLOGIST, OR OTHER INDIVIDUAL QUALIFIED TO EVALUATE THE ALLEGED IMPAIRMENT, AND THE VISITOR, AND OTHERWISE PARTICIPATE IN THE HEARING. THE HEARING MAY BE HELD IN A MANNER THAT REASONABLY ACCOMMODATES THE RESPONDENT AND MAY BE CLOSED UPON REQUEST OF THE RESPONDENT, OR UPON A SHOWING OF GOOD CAUSE; EXCEPT THAT THE HEARING MAY NOT BE CLOSED OVER THE OBJECTION OF THE RESPONDENT.

(2) ANY PERSON MAY REQUEST PERMISSION TO PARTICIPATE IN THE PROCEEDING. THE COURT MAY GRANT THE REQUEST, WITH OR WITHOUT HEARING, UPON DETERMINING THAT THE BEST INTEREST OF THE RESPONDENT WILL BE SERVED. THE COURT MAY ATTACH APPROPRIATE CONDITIONS TO THE PARTICIPATION.

(3) THE PETITIONER SHALL MAKE EVERY REASONABLE EFFORT TO SECURE THE RESPONDENT'S ATTENDANCE AT THE HEARING.

15-14-409. Original petition - orders. (1) IF A PROCEEDING IS BROUGHT FOR THE REASON THAT THE RESPONDENT IS A MINOR, AFTER A HEARING ON THE PETITION, UPON FINDING THAT THE APPOINTMENT OF A CONSERVATOR OR OTHER PROTECTIVE ORDER IS IN THE BEST INTEREST OF THE MINOR, THE COURT SHALL MAKE AN APPOINTMENT OR OTHER APPROPRIATE PROTECTIVE ORDER.

(2) IF A PROCEEDING IS BROUGHT FOR REASONS OTHER THAN THAT THE RESPONDENT IS A MINOR, AFTER A HEARING ON THE PETITION, UPON FINDING THAT A BASIS EXISTS FOR A CONSERVATORSHIP OR OTHER PROTECTIVE ORDER, THE COURT SHALL MAKE THE LEAST RESTRICTIVE ORDER CONSISTENT WITH ITS FINDINGS. THE COURT SHALL MAKE ORDERS NECESSITATED BY THE PROTECTED PERSON'S LIMITATIONS AND DEMONSTRATED NEEDS, INCLUDING APPOINTIVE AND OTHER ORDERS THAT WILL ENCOURAGE THE DEVELOPMENT OF MAXIMUM SELF-RELIANCE AND INDEPENDENCE OF THE PROTECTED PERSON.

(3) WITHIN THIRTY DAYS AFTER AN APPOINTMENT, THE CONSERVATOR SHALL DELIVER OR SEND A COPY OF THE ORDER OF APPOINTMENT, TOGETHER WITH A STATEMENT OF THE RIGHT TO SEEK TERMINATION OR MODIFICATION, TO THE PROTECTED PERSON, IF THE PROTECTED PERSON HAS ATTAINED TWELVE YEARS OF AGE AND IS NOT MISSING, DETAINED, OR UNABLE TO RETURN TO THE UNITED STATES, AND TO ALL OTHER PERSONS GIVEN NOTICE OF THE PETITION.

(4) THE APPOINTMENT OF A CONSERVATOR OR THE ENTRY OF ANOTHER PROTECTIVE ORDER IS NOT A DETERMINATION OF INCAPACITY OF THE PROTECTED PERSON.

15-14-410. Powers of court. (1) AFTER HEARING AND UPON DETERMINING THAT A BASIS FOR A CONSERVATORSHIP OR OTHER PROTECTIVE ORDER EXISTS, THE COURT HAS THE FOLLOWING POWERS, WHICH MAY BE EXERCISED DIRECTLY OR THROUGH A CONSERVATOR:

(a) WITH RESPECT TO A MINOR FOR REASONS OF AGE, ALL THE POWERS OVER THE ESTATE AND BUSINESS AFFAIRS OF THE MINOR THAT MAY BE NECESSARY FOR THE BEST INTEREST OF THE MINOR AND MEMBERS OF THE MINOR'S IMMEDIATE FAMILY; AND

(b) WITH RESPECT TO AN ADULT, OR TO A MINOR FOR REASONS OTHER THAN AGE, FOR THE BENEFIT OF THE PROTECTED PERSON AND INDIVIDUALS WHO ARE IN FACT DEPENDENT ON THE PROTECTED PERSON FOR SUPPORT, ALL THE POWERS OVER THE ESTATE AND BUSINESS AFFAIRS OF THE PROTECTED PERSON THAT THE PERSON COULD EXERCISE IF THE PERSON WERE AN ADULT, PRESENT, AND NOT UNDER CONSERVATORSHIP OR OTHER PROTECTIVE ORDER.

(2) SUBJECT TO SECTION 15-14-110 REQUIRING ENDORSEMENT OF LIMITATIONS ON THE LETTERS OF OFFICE, THE COURT MAY LIMIT AT ANY TIME THE POWERS OF A CONSERVATOR OTHERWISE CONFERRED AND MAY REMOVE OR MODIFY ANY LIMITATION.

15-14-411. Required court approval. (1) AFTER NOTICE TO INTERESTED PERSONS AND UPON EXPRESS AUTHORIZATION OF THE COURT, A CONSERVATOR MAY:

(a) MAKE GIFTS, EXCEPT AS OTHERWISE PROVIDED IN SECTION 15-14-427 (2);

(b) CONVEY, RELEASE, OR DISCLAIM CONTINGENT AND EXPECTANT INTERESTS IN PROPERTY, INCLUDING MARITAL PROPERTY RIGHTS AND ANY RIGHT OF SURVIVORSHIP INCIDENT TO JOINT TENANCY OR TENANCY BY THE ENTIRETIES;

(c) EXERCISE OR RELEASE A POWER OF APPOINTMENT;

(d) CREATE A REVOCABLE OR IRREVOCABLE TRUST OF PROPERTY OF THE ESTATE, WHETHER OR NOT THE TRUST EXTENDS BEYOND THE DURATION OF THE CONSERVATORSHIP, OR REVOKE OR AMEND A TRUST REVOCABLE BY THE PROTECTED PERSON;

(e) EXERCISE RIGHTS TO ELECT OPTIONS AND CHANGE BENEFICIARIES UNDER RETIREMENT PLANS, INSURANCE POLICIES, AND ANNUITIES OR SURRENDER THE PLANS, POLICIES, AND ANNUITIES FOR THEIR CASH VALUE;

(f) EXERCISE ANY RIGHT TO AN ELECTIVE SHARE IN THE ESTATE OF THE PROTECTED PERSON'S DECEASED SPOUSE AND TO RENOUNCE OR DISCLAIM ANY INTEREST BY TESTATE OR INTESATE SUCCESSION OR BY TRANSFER INTER VIVOS; AND

(g) MAKE, AMEND, OR REVOKE THE PROTECTED PERSON'S WILL.

(2) A CONSERVATOR, IN MAKING, AMENDING, OR REVOKING THE PROTECTED PERSON'S WILL, SHALL COMPLY WITH SECTION 15-11-502 OR 15-11-507.

(3) THE COURT, IN EXERCISING OR IN APPROVING A CONSERVATOR'S EXERCISE OF THE POWERS LISTED IN SUBSECTION (1) OF THIS SECTION, SHALL CONSIDER PRIMARILY THE DECISION THAT THE PROTECTED PERSON WOULD HAVE MADE, TO THE EXTENT THAT THE DECISION CAN BE ASCERTAINED. TO THE EXTENT THE DECISION CANNOT BE ASCERTAINED, THE COURT SHALL CONSIDER THE BEST INTEREST OF THE PROTECTED PERSON. THE COURT SHALL ALSO CONSIDER:

(a) THE FINANCIAL NEEDS OF THE PROTECTED PERSON AND THE NEEDS OF INDIVIDUALS WHO ARE IN FACT DEPENDENT ON THE PROTECTED PERSON FOR SUPPORT AND THE INTEREST OF CREDITORS;

(b) POSSIBLE REDUCTION OF INCOME, ESTATE, INHERITANCE, OR OTHER TAX LIABILITIES;

(c) ELIGIBILITY FOR GOVERNMENTAL ASSISTANCE;

(d) THE PROTECTED PERSON'S PREVIOUS PATTERN OF GIVING OR LEVEL OF SUPPORT;

(e) THE EXISTING ESTATE PLAN;

(f) THE PROTECTED PERSON'S LIFE EXPECTANCY AND THE PROBABILITY THAT THE CONSERVATORSHIP WILL TERMINATE BEFORE THE PROTECTED PERSON'S DEATH; AND

(g) ANY OTHER FACTORS THE COURT CONSIDERS RELEVANT, INCLUDING THE BEST INTEREST OF THE PROTECTED PERSON.

15-14-412. Protective arrangements and single transactions. (1) IF A BASIS IS ESTABLISHED FOR A PROTECTIVE ORDER WITH RESPECT TO AN INDIVIDUAL, THE COURT, WITHOUT APPOINTING A CONSERVATOR, MAY:

(a) AUTHORIZE, DIRECT, OR RATIFY ANY TRANSACTION NECESSARY OR DESIRABLE TO ACHIEVE ANY ARRANGEMENT FOR SECURITY, SERVICE, OR CARE MEETING THE FORESEEABLE NEEDS OF THE PROTECTED PERSON, INCLUDING:

(I) PAYMENT, DELIVERY, DEPOSIT, OR RETENTION OF FUNDS OR PROPERTY;

(II) SALE, MORTGAGE, LEASE, OR OTHER TRANSFER OF PROPERTY;

(III) PURCHASE OF AN ANNUITY;

(IV) MAKING A CONTRACT FOR LIFE CARE, DEPOSIT CONTRACT, OR CONTRACT FOR TRAINING AND EDUCATION; OR

(V) ADDITION TO OR ESTABLISHMENT OF A SUITABLE TRUST, INCLUDING A TRUST CREATED UNDER THE "COLORADO UNIFORM CUSTODIAL TRUST ACT", ARTICLE 1.5 OF THIS TITLE; AND

(b) AUTHORIZE, DIRECT, OR RATIFY ANY OTHER CONTRACT, TRUST, WILL, OR TRANSACTION RELATING TO THE PROTECTED PERSON'S PROPERTY AND BUSINESS AFFAIRS, INCLUDING A SETTLEMENT OF, AND DISTRIBUTION OF SETTLEMENT OF, A CLAIM, UPON DETERMINING THAT IT IS IN THE BEST INTEREST OF THE PROTECTED PERSON.

(2) IN DECIDING WHETHER TO APPROVE A PROTECTIVE ARRANGEMENT OR OTHER TRANSACTION UNDER THIS SECTION, THE COURT SHALL CONSIDER THE FACTORS DESCRIBED IN SECTION 15-14-411 (3).

(3) THE COURT MAY APPOINT A SPECIAL CONSERVATOR TO ASSIST IN THE ACCOMPLISHMENT OF ANY PROTECTIVE ARRANGEMENT OR OTHER TRANSACTION AUTHORIZED UNDER THIS SECTION. THE SPECIAL CONSERVATOR HAS THE AUTHORITY CONFERRED BY THE ORDER AND SHALL SERVE UNTIL DISCHARGED BY ORDER AFTER REPORT TO THE COURT.

15-14-412.5. Limited court-approved arrangements authorized for persons seeking medical assistance for nursing home care - applicable to trusts established before a certain date. (1) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT:

(a) THE STATE MAKES SIGNIFICANT EXPENDITURES FOR NURSING HOME CARE UNDER THE "COLORADO MEDICAL ASSISTANCE ACT";

(b) A LARGE NUMBER OF PERSONS DO NOT HAVE ENOUGH INCOME TO AFFORD NURSING HOME CARE, BUT HAVE TOO MUCH INCOME TO QUALIFY FOR STATE MEDICAL ASSISTANCE, A SITUATION POPULARLY REFERRED TO AS THE "UTAH GAP";

(c) SOME PERSONS IN THE UTAH GAP, THROUGH INNOVATIVE COURT-APPROVED TRUST ARRANGEMENTS, HAVE BECOME QUALIFIED FOR STATE MEDICAL ASSISTANCE, THEREBY INCREASING STATE MEDICAL ASSISTANCE EXPENDITURES;

(d) IT IS THEREFORE APPROPRIATE TO ENACT STATE LAWS THAT LIMIT SUCH COURT-APPROVED TRUSTS IN A MANNER THAT IS CONSISTENT WITH TITLE XIX OF THE FEDERAL "SOCIAL SECURITY ACT", 42 U.S.C. SEC. 1396 ET SEQ., AS AMENDED, AND THAT PROVIDE THAT PERSONS WHO QUALIFY FOR ASSISTANCE AS A RESULT OF THE CREATION OF SUCH TRUSTS SHALL BE TREATED THE SAME AS ANY OTHER RECIPIENT OF MEDICAL ASSISTANCE FOR NURSING HOME CARE;

(e) IN ENACTING THIS SECTION, THE GENERAL ASSEMBLY INTENDS ONLY TO LIMIT CERTAIN COURT-APPROVED TRUSTS AND COURT-APPROVED TRANSFERS OF PROPERTY. IT IS NOT THE GENERAL ASSEMBLY'S INTENT TO APPROVE OR DISAPPROVE OF PRIVATELY CREATED TRUSTS OR PRIVATE TRANSFERS OF PROPERTY MADE UNDER THE SAME OR SIMILAR CIRCUMSTANCES.

(2) THE COURT SHALL NOT AUTHORIZE, DIRECT, OR RATIFY ANY TRUST THAT EITHER HAS THE EFFECT OF QUALIFYING OR PURPORTS TO QUALIFY THE TRUST BENEFICIARY FOR MEDICAL ASSISTANCE FOR NURSING HOME CARE PURSUANT TO THE PROVISIONS OF TITLE 26, C.R.S., UNLESS THE CIRCUMSTANCES SURROUNDING THE CREATION OF THE TRUST AND THE TRUST PROVISIONS MEET THE CRITERIA SET FORTH IN SECTION 26-4-506.5 (3), C.R.S. THIS SECTION SHALL APPLY TO ANY

COURT-APPROVED TRUST THAT IS FUNDED WITH PROPERTY OWNED BY THE BENEFICIARY AT THE TIME THE TRUST IS CREATED BUT SHALL NOT APPLY TO ANY TRUST THAT IS ESTABLISHED AND DIRECTLY FUNDED BY A DEFENDANT OR INSURANCE COMPANY IN SETTLEMENT OF AN ACTION OR CLAIM FOR PERSONAL INJURY BROUGHT BY OR ON BEHALF OF THE TRUST BENEFICIARY.

(3) EXCEPT AS OTHERWISE PERMITTED BY TITLE XIX OF THE FEDERAL "SOCIAL SECURITY ACT", 42 U.S.C. SEC. 1396p, AS AMENDED, THE COURT SHALL NOT AUTHORIZE, DIRECT, OR RATIFY THE TRANSFER OF ANY PROPERTY OWNED BY A PROTECTED PERSON IF THE TRANSFER EITHER HAS THE EFFECT OF QUALIFYING OR PURPORTS TO QUALIFY THE PROTECTED PERSON FOR MEDICAL ASSISTANCE FOR NURSING HOME CARE PURSUANT TO THE PROVISIONS OF TITLE 26, C.R.S., UNLESS THE PROPERTY IS TRANSFERRED INTO A TRUST ESTABLISHED IN ACCORDANCE WITH SUBSECTION (2) OF THIS SECTION.

(4) THIS SECTION SHALL TAKE EFFECT JANUARY 1, 1992, AND SHALL APPLY TO ANY COURT-APPROVED TRUST ESTABLISHED FOR OR COURT-APPROVED TRANSFER OF PROPERTY MADE BY OR FOR A PROTECTED PERSON APPLYING FOR OR RECEIVING MEDICAL ASSISTANCE FOR NURSING HOME CARE PURSUANT TO THE PROVISIONS OF TITLE 26, C.R.S., ON OR AFTER SAID DATE; EXCEPT THAT SUCH A TRUST CREATED BEFORE SAID DATE THAT DOES NOT COMPLY WITH THIS SECTION SHALL BE MODIFIED TO COMPLY WITH THIS SECTION NO LATER THAN JULY 1, 1992, BEFORE WHICH TIME A COURT-APPROVED TRUST OR A COURT-APPROVED TRANSFER OF PROPERTY TO A COURT-APPROVED TRUST SHALL NOT RENDER THE PROTECTED PERSON INELIGIBLE FOR MEDICAL ASSISTANCE.

(5) THE PROVISIONS OF THIS SECTION SHALL NOT APPLY IF FEDERAL FUNDS ARE NOT AVAILABLE FOR PERSONS WHO WOULD QUALIFY FOR MEDICAL ASSISTANCE AS A RESULT OF A COURT-APPROVED TRUST THAT MEETS THE CRITERIA SET FORTH IN SECTION 26-4-506.5, C.R.S.

(6) THIS SECTION APPLIES TO TRUSTS ESTABLISHED OR TRANSFERS OF PROPERTY MADE PRIOR TO JULY 1, 1994. THE PROVISIONS SET FORTH IN SECTIONS 15-14-412.6 TO 15-14-412.9 AND ANY RULE ADOPTED BY THE MEDICAL SERVICES BOARD PURSUANT TO SECTION 26-4-506.6, C.R.S., APPLY TO TRUSTS ESTABLISHED OR PROPERTY TRANSFERRED ON OR AFTER JULY 1, 1994.

15-14-412.6. Trust established by an individual - eligibility for certain public assistance programs - general provisions. (1) FOR PURPOSES OF THIS SECTION AND SECTIONS 15-14-412.7 TO 15-14-412.9, UNLESS THE CONTEXT OTHERWISE REQUIRES THE FOLLOWING DEFINITIONS APPLY:

(a) "ASSET" HAS THE SAME MEANING AS SET FORTH IN TITLE XIX OF THE FEDERAL "SOCIAL SECURITY ACT", 42 U.S.C. SEC. 1396p (e), AS AMENDED.

(b) "INCOME" HAS THE SAME MEANING AS SET FORTH IN TITLE XIX OF THE FEDERAL "SOCIAL SECURITY ACT", 42 U.S.C. SEC. 1396p (e), AS AMENDED.

(c) "PUBLIC ASSISTANCE" MEANS PUBLIC ASSISTANCE AS PROVIDED BY ARTICLE 2 OF TITLE 26, C.R.S., AND MEDICAL ASSISTANCE AS PROVIDED BY ARTICLE 4 OF TITLE 26, C.R.S.

(d) "RESOURCES" HAS THE SAME MEANING AS SET FORTH IN TITLE XIX OF THE FEDERAL "SOCIAL SECURITY ACT", 42 U.S.C. SEC. 1396p (e), AS AMENDED.

(e) "TRUST ESTABLISHED BY AN INDIVIDUAL" HAS THE SAME MEANING AS SET FORTH IN TITLE XIX OF THE FEDERAL "SOCIAL SECURITY ACT", 42 U.S.C. SEC. 1396p (d) (2), AS AMENDED.

(2) NOTWITHSTANDING ANY STATUTORY PROVISION TO THE CONTRARY, A COURT SHALL NOT AUTHORIZE, DIRECT, OR RATIFY ANY TRUST ESTABLISHED BY AN INDIVIDUAL THAT HAS THE EFFECT OF QUALIFYING OR PURPORTS TO QUALIFY THE TRUST BENEFICIARY FOR PUBLIC ASSISTANCE UNLESS THE TRUST MEETS THE CRITERIA SET FORTH IN THIS SECTION, SECTIONS 15-14-412.7 TO 15-14-412.9, AND ANY RULE ADOPTED BY THE MEDICAL SERVICES BOARD PURSUANT TO SECTION 26-4-506.6, C.R.S.

(3) THE COURT SHALL NOT AUTHORIZE, DIRECT, OR RATIFY THE TRANSFER OF ANY ASSETS OWNED BY A PROTECTED PERSON IF THE TRANSFER HAS THE EFFECT OF QUALIFYING OR PURPORTS TO QUALIFY THE PROTECTED PERSON FOR PUBLIC ASSISTANCE UNLESS THE ASSETS ARE TRANSFERRED TO A TRUST THAT MEETS THE CRITERIA SET FORTH IN THIS SECTION, SECTIONS 15-14-412.7 TO 15-14-412.9, AND ANY RULE ADOPTED BY THE MEDICAL SERVICES BOARD PURSUANT TO SECTION 26-4-506.6, C.R.S.

15-14-412.7. Income trusts - limitations. (1) AN INCOME TRUST WITHIN THE MEANING OF THIS SECTION IS A TRUST ESTABLISHED FOR THE BENEFIT OF AN INDIVIDUAL THAT CONSISTS ONLY OF PENSION INCOME, SOCIAL SECURITY, AND OTHER MONTHLY INCOME TO THE INDIVIDUAL AND ACCUMULATED INCOME IN THE TRUST AND THAT IS ESTABLISHED FOR THE PURPOSE OR WITH THE EFFECT OF ESTABLISHING OR MAINTAINING INCOME ELIGIBILITY FOR CERTAIN MEDICAL ASSISTANCE.

(2) AN INCOME TRUST SHALL NOT BE EFFECTIVE FOR ESTABLISHING OR MAINTAINING INCOME ELIGIBILITY FOR ANY CATEGORY OF PUBLIC ASSISTANCE OTHER THAN NURSING HOME CARE OR HOME- AND COMMUNITY-BASED SERVICES.

(3) IN ORDER TO ESTABLISH OR MAINTAIN INCOME ELIGIBILITY, AN INCOME TRUST SHALL MEET ALL OF THE FOLLOWING CRITERIA:

(a) THE ASSETS USED TO FUND THE TRUST ARE LIMITED TO ANY MONTHLY UNEARNED INCOME RECEIVED BY THE APPLICANT, INCLUDING ANY PENSION PAYMENT;

(b) THE SOLE LIFETIME BENEFICIARIES OF THE TRUST ARE THE PERSON FOR WHOM THE TRUST IS ESTABLISHED AND THE STATE MEDICAL ASSISTANCE PROGRAM. AFTER THE DEATH OF THE PERSON FOR WHOM THE TRUST IS CREATED OR AFTER THE TRUST IS TERMINATED DURING THE BENEFICIARY'S LIFETIME, WHICHEVER OCCURS SOONER, NO PERSON IS ENTITLED TO PAYMENT FROM THE REMAINDER OF THE TRUST UNTIL THE STATE MEDICAL ASSISTANCE AGENCY HAS BEEN FULLY REIMBURSED FOR THE ASSISTANCE RENDERED TO THE PERSON FOR WHOM THE TRUST WAS CREATED.

(c) THE ENTIRE CORPUS OF THE TRUST, OR AS MUCH OF THE CORPUS AS MAY BE DISTRIBUTED EACH MONTH WITHOUT VIOLATING FEDERAL REQUIREMENTS FOR FEDERAL FINANCIAL PARTICIPATION, IS DISTRIBUTED EACH MONTH FOR EXPENSES

RELATED TO NURSING HOME CARE OR HOME- AND COMMUNITY-BASED SERVICES FOR THE BENEFICIARY THAT ARE APPROVED UNDER THE STATE MEDICAL ASSISTANCE PROGRAM; EXCEPT THAT AN AMOUNT REASONABLY NECESSARY TO MAINTAIN THE EXISTENCE OF THE TRUST AND TO COMPLY WITH FEDERAL REQUIREMENTS MAY BE RETAINED IN THE TRUST;

(d) THE TRUST PROVIDES THAT DEDUCTIONS MAY BE MADE FROM THE MONTHLY TRUST DISTRIBUTION TO THE SAME EXTENT THAT DEDUCTIONS FROM THE INCOME OF A NURSING HOME RESIDENT OR HOME- AND COMMUNITY-BASED SERVICES CLIENT ARE ALLOWED UNDER THE STATE MEDICAL ASSISTANCE PROGRAM, ARTICLE 4 OF TITLE 26, C.R.S., FOR NURSING HOME RESIDENTS AND HOME- AND COMMUNITY-BASED SERVICES CLIENTS WHO ARE NOT TRUST BENEFICIARIES. ALLOWABLE DEDUCTIONS INCLUDE THE FOLLOWING:

(I) A MONTHLY PERSONAL NEEDS ALLOWANCE;

(II) WITH RESPECT TO NURSING HOME RESIDENTS ONLY, PAYMENTS TO THE BENEFICIARY'S COMMUNITY SPOUSE OR DEPENDENT FAMILY MEMBERS AS PROVIDED AND IN ACCORDANCE WITH TITLE XIX OF THE FEDERAL "SOCIAL SECURITY ACT", 42 U.S.C. SEC. 1396r-5, AS AMENDED, AND SECTION 26-4-506, C.R.S.;

(III) SPECIFIED HEALTH INSURANCE COSTS AND SPECIAL MEDICAL SERVICES PROVIDED UNDER TITLE XIX OF THE FEDERAL "SOCIAL SECURITY ACT", 42 U.S.C. SEC. 1396a (r), AS AMENDED;

(IV) ANY OTHER DEDUCTION PROVIDED BY RULES OF THE MEDICAL SERVICES BOARD, INCLUDING RULES CONCERNING POSTELIGIBILITY TREATMENT OF INCOME FOR HOME- AND COMMUNITY-BASED SERVICES CLIENTS;

(e) THE TRUST PROVIDES THAT, UPON THE DEATH OF THE BENEFICIARY OR TERMINATION OF THE TRUST DURING THE BENEFICIARY'S LIFETIME, WHICHEVER OCCURS SOONER, THE STATE AGENCY ADMINISTERING THE STATE MEDICAL ASSISTANCE PROGRAM RECEIVES ALL AMOUNTS REMAINING IN THE TRUST UP TO THE TOTAL MEDICAL ASSISTANCE PAID ON BEHALF OF THE INDIVIDUAL;

(f) THE APPLICANT'S MONTHLY GROSS INCOME FROM ALL SOURCES, WITHOUT REFERENCE TO THE TRUST, EXCEEDS THE INCOME ELIGIBILITY STANDARD FOR MEDICAL ASSISTANCE THEN IN EFFECT BUT IS LESS THAN THE AVERAGE PRIVATE PAY RATE FOR NURSING HOME CARE FOR THE GEOGRAPHIC REGION IN WHICH THE APPLICANT LIVES.

15-14-412.8. Disability trusts - limitations. (1) A DISABILITY TRUST WITHIN THE MEANING OF THIS SECTION IS A TRUST THAT IS ESTABLISHED FOR AN INDIVIDUAL UNDER SIXTY-FIVE YEARS OF AGE WHO IS DISABLED, AS SUCH TERM IS DEFINED IN TITLE XIX OF THE FEDERAL "SOCIAL SECURITY ACT", 42 U.S.C. SEC. 1382c (a) (3), AS AMENDED, CONSISTS OF ASSETS OF THE INDIVIDUAL, AND IS ESTABLISHED FOR THE PURPOSE OR WITH THE EFFECT OF ESTABLISHING OR MAINTAINING THE INDIVIDUAL'S RESOURCE ELIGIBILITY FOR MEDICAL ASSISTANCE.

(2) A DISABILITY TRUST IS NOT VALID FOR THE PURPOSE OF ESTABLISHING OR MAINTAINING A PERSON'S RESOURCE ELIGIBILITY FOR MEDICAL ASSISTANCE UNLESS

THE TRUST MEETS ALL OF THE FOLLOWING CRITERIA:

(a) THE TRUST IS FUNDED BY ASSETS OF AN INDIVIDUAL UNDER AGE SIXTY-FIVE WHO IS DISABLED AS DEFINED IN 42 U.S.C. SEC. 1382c (a) (3), AS AMENDED, AND WHICH IS ESTABLISHED FOR THE BENEFIT OF SUCH INDIVIDUAL BY THE INDIVIDUAL'S PARENT, GRANDPARENT, GUARDIAN, OR BY THE COURT.

(b) THE TRUST PROVIDES THAT, UPON THE DEATH OF THE BENEFICIARY OR TERMINATION OF THE TRUST DURING THE BENEFICIARY'S LIFETIME, WHICHEVER OCCURS SOONER, THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING RECEIVES ANY AMOUNT REMAINING IN THE TRUST UP TO THE TOTAL MEDICAL ASSISTANCE PAID ON BEHALF OF THE INDIVIDUAL.

(c) THE SOLE LIFETIME BENEFICIARIES OF THE TRUST ARE THE INDIVIDUAL FOR WHOM THE TRUST IS ESTABLISHED AND THE STATE MEDICAL ASSISTANCE PROGRAM. AFTER THE DEATH OF THE PERSON FOR WHOM THE TRUST IS CREATED OR AFTER THE TRUST IS TERMINATED DURING THE BENEFICIARY'S LIFETIME, WHICHEVER OCCURS SOONER, NO PERSON IS ENTITLED TO PAYMENT FROM THE REMAINDER OF THE TRUST UNTIL THE STATE MEDICAL ASSISTANCE AGENCY HAS BEEN FULLY REIMBURSED FOR THE ASSISTANCE RENDERED TO THE PERSON FOR WHOM THE TRUST WAS CREATED.

(3) A DISABILITY TRUST IS NOT VALID FOR THE PURPOSE OF ESTABLISHING OR MAINTAINING ELIGIBILITY FOR ANY CATEGORY OF PUBLIC ASSISTANCE OTHER THAN MEDICAL ASSISTANCE.

(4) NO DISABILITY TRUST SHALL BE VALID UNLESS THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, OR ITS DESIGNEE, HAS REVIEWED THE TRUST AND DETERMINED THAT THE TRUST CONFORMS TO THE REQUIREMENTS OF THIS SECTION AND ANY RULES ADOPTED BY THE MEDICAL SERVICES BOARD PURSUANT TO SECTION 26-4-506.6, C.R.S.

15-14-412.9. Pooled trusts - limitations. (1) A POOLED TRUST WITHIN THE MEANING OF THIS SECTION IS A TRUST CONSISTING OF INDIVIDUAL ACCOUNTS ESTABLISHED FOR INDIVIDUALS WHO ARE DISABLED AND IS ESTABLISHED FOR THE PURPOSE OR WITH THE EFFECT OF ESTABLISHING OR MAINTAINING A PERSON'S RESOURCE ELIGIBILITY FOR MEDICAL ASSISTANCE.

(2) A POOLED TRUST IS NOT VALID FOR THE PURPOSES OF ESTABLISHING OR MAINTAINING ELIGIBILITY FOR MEDICAL ASSISTANCE UNLESS THE TRUST MEETS THE FOLLOWING CRITERIA:

(a) THE TRUST IS ESTABLISHED AND MANAGED BY A NONPROFIT ASSOCIATION THAT IS APPROVED BY THE UNITED STATES INTERNAL REVENUE SERVICE.

(b) A SEPARATE ACCOUNT IS MAINTAINED FOR EACH BENEFICIARY OF THE TRUST; EXCEPT THAT THE ACCOUNTS ARE POOLED FOR PURPOSES OF INVESTMENT AND MANAGEMENT OF FUNDS.

(c) THE SOLE LIFETIME BENEFICIARIES OF THE TRUST ARE THE INDIVIDUAL FOR WHOM THE TRUST IS ESTABLISHED AND THE STATE MEDICAL ASSISTANCE PROGRAM. AFTER THE DEATH OF THE PERSON FOR WHOM THE TRUST IS CREATED OR AFTER THE

TRUST IS TERMINATED DURING THE BENEFICIARY'S LIFETIME, WHICHEVER OCCURS SOONER, NO PERSON IS ENTITLED TO PAYMENT FROM THE REMAINDER OF THE TRUST UNTIL THE STATE MEDICAL ASSISTANCE AGENCY HAS BEEN FULLY REIMBURSED FOR THE ASSISTANCE RENDERED TO THE PERSON FOR WHOM THE TRUST WAS CREATED.

(d) ACCOUNTS IN THE TRUST ARE ESTABLISHED SOLELY FOR THE BENEFIT OF INDIVIDUALS WHO ARE DISABLED AS DEFINED IN 42 U.S.C. SEC. 1382c (a) (3), AS AMENDED, AND ARE ESTABLISHED BY THE PARENT, GRANDPARENT, OR LEGAL GUARDIAN OF SUCH INDIVIDUAL, BY SUCH INDIVIDUAL, OR BY A COURT.

(e) THE TRUST PROVIDES THAT, UPON THE DEATH OF THE BENEFICIARY OR TERMINATION OF THE TRUST DURING THE BENEFICIARY'S LIFETIME, WHICHEVER OCCURS SOONER, TO THE EXTENT THAT AMOUNTS REMAINING IN THE BENEFICIARY'S TRUST ACCOUNT ARE NOT RETAINED BY THE TRUST, THE STATE MEDICAL ASSISTANCE PROGRAM RECEIVES ANY AMOUNT REMAINING IN THAT INDIVIDUAL'S TRUST ACCOUNT UP TO THE TOTAL MEDICAL ASSISTANCE PAID ON BEHALF OF THE INDIVIDUAL.

(3) A POOLED TRUST IS NOT VALID FOR THE PURPOSE OF ESTABLISHING OR MAINTAINING A PERSON'S ELIGIBILITY FOR ANY CATEGORY OF PUBLIC ASSISTANCE OTHER THAN MEDICAL ASSISTANCE.

(4) NO POOLED TRUST SHALL BE VALID UNLESS THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, OR ITS DESIGNEE, HAS REVIEWED THE TRUST AND DETERMINED THAT THE TRUST CONFORMS TO THE REQUIREMENTS OF THIS SECTION AND ANY RULES ADOPTED BY THE MEDICAL SERVICES BOARD PURSUANT TO SECTION 26-4-506.6, C.R.S.

15-14-413. Who may be conservator - priorities - prohibition of dual roles.

(1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (4) OF THIS SECTION, THE COURT, IN APPOINTING A CONSERVATOR, SHALL CONSIDER PERSONS OTHERWISE QUALIFIED IN THE FOLLOWING ORDER OF PRIORITY:

(a) A CONSERVATOR, GUARDIAN OF THE ESTATE, OR OTHER LIKE FIDUCIARY APPOINTED OR RECOGNIZED BY AN APPROPRIATE COURT OF ANY OTHER JURISDICTION IN WHICH THE PROTECTED PERSON RESIDES;

(b) A PERSON NOMINATED AS CONSERVATOR BY THE RESPONDENT, INCLUDING THE RESPONDENT'S SPECIFIC NOMINATION OF A CONSERVATOR MADE IN A DURABLE POWER OF ATTORNEY, IF THE RESPONDENT HAS ATTAINED TWELVE YEARS OF AGE;

(c) AN AGENT APPOINTED BY THE RESPONDENT TO MANAGE THE RESPONDENT'S PROPERTY UNDER A DURABLE POWER OF ATTORNEY;

(d) THE SPOUSE OF THE RESPONDENT;

(e) AN ADULT CHILD OF THE RESPONDENT;

(f) A PARENT OF THE RESPONDENT; AND

(g) AN ADULT WITH WHOM THE RESPONDENT HAS RESIDED FOR MORE THAN SIX MONTHS IMMEDIATELY BEFORE THE FILING OF THE PETITION.

(2) A RESPONDENT'S NOMINATION OR APPOINTMENT OF A CONSERVATOR SHALL CREATE PRIORITY FOR THE NOMINEE OR APPOINTEE ONLY IF, AT THE TIME OF NOMINATION OR APPOINTMENT, THE RESPONDENT HAD SUFFICIENT CAPACITY TO EXPRESS A PREFERENCE.

(3) A PERSON HAVING PRIORITY UNDER PARAGRAPH (a), (d), (e), OR (f) OF SUBSECTION (1) OF THIS SECTION MAY DESIGNATE IN WRITING A SUBSTITUTE TO SERVE INSTEAD AND THEREBY TRANSFER THE PRIORITY TO THE SUBSTITUTE.

(4) WITH RESPECT TO PERSONS HAVING EQUAL PRIORITY, THE COURT SHALL SELECT THE ONE IT CONSIDERS BEST QUALIFIED. THE COURT, FOR GOOD CAUSE, MAY DECLINE TO APPOINT A PERSON HAVING PRIORITY AND APPOINT A PERSON HAVING A LOWER PRIORITY OR NO PRIORITY.

(5) AN OWNER, OPERATOR, OR EMPLOYEE OF A LONG-TERM CARE PROVIDER FROM WHICH THE RESPONDENT IS RECEIVING CARE MAY NOT BE APPOINTED AS CONSERVATOR UNLESS RELATED TO THE RESPONDENT BY BLOOD, MARRIAGE, OR ADOPTION.

(6) (a) UNLESS THE COURT MAKES SPECIFIC FINDINGS FOR GOOD CAUSE SHOWN, THE SAME PROFESSIONAL MAY NOT ACT AS AN INCAPACITATED PERSON'S OR A PROTECTED PERSON'S:

(I) GUARDIAN AND CONSERVATOR; OR

(II) GUARDIAN AND DIRECT SERVICE PROVIDER; OR

(III) CONSERVATOR AND DIRECT SERVICE PROVIDER.

(b) IN ADDITION, A GUARDIAN OR CONSERVATOR MAY NOT EMPLOY THE SAME PERSON TO ACT AS BOTH CARE MANAGER AND DIRECT SERVICE PROVIDER FOR THE INCAPACITATED PERSON OR PROTECTED PERSON.

15-14-414. Petition for order subsequent to appointment. (1) A PROTECTED PERSON OR A PERSON INTERESTED IN THE WELFARE OF A PROTECTED PERSON MAY FILE A PETITION IN THE APPOINTING COURT FOR AN ORDER:

(a) REQUIRING BOND OR COLLATERAL OR ADDITIONAL BOND OR COLLATERAL, OR REDUCING BOND OR COLLATERAL;

(b) REQUIRING AN ACCOUNTING FOR THE ADMINISTRATION OF THE PROTECTED PERSON'S ESTATE;

(c) DIRECTING DISTRIBUTION;

(d) REMOVING THE CONSERVATOR AND APPOINTING A TEMPORARY OR SUCCESSOR CONSERVATOR;

(e) MODIFYING THE TYPE OF APPOINTMENT OR POWERS GRANTED TO THE CONSERVATOR IF THE EXTENT OF PROTECTION OR MANAGEMENT PREVIOUSLY GRANTED IS CURRENTLY EXCESSIVE OR INSUFFICIENT OR THE PROTECTED PERSON'S

ABILITY TO MANAGE THE ESTATE AND BUSINESS AFFAIRS HAS SO CHANGED AS TO WARRANT THE ACTION; OR

(f) GRANTING OTHER APPROPRIATE RELIEF.

(2) A CONSERVATOR MAY PETITION THE APPOINTING COURT FOR INSTRUCTIONS CONCERNING FIDUCIARY RESPONSIBILITY.

(3) UPON NOTICE AND HEARING THE PETITION, THE COURT MAY GIVE APPROPRIATE INSTRUCTIONS AND MAKE ANY APPROPRIATE ORDER.

(4) AT THE CONCLUSION OF THE HEARINGS AUTHORIZED BY THIS SECTION, THE COURT MAY REVIEW THE MOTIONS AND PETITIONS FILED BY A PARTY UNDER THIS SECTION TO DETERMINE IF THEY WERE SUBSTANTIALLY WARRANTED AND BROUGHT IN GOOD FAITH. IF, AFTER THE HEARING, THE COURT DETERMINES THAT THE MOTIONS AND PETITIONS FILED UNDER THIS SECTION WERE NOT SUBSTANTIALLY WARRANTED OR WERE BROUGHT IN BAD FAITH, THE COURT MAY AWARD FEES AND COSTS AGAINST THE MOVANT OR PETITIONER INCLUDING, BUT NOT LIMITED TO, THE ATTORNEY FEES AND COSTS INCURRED BY THE CONSERVATORSHIP, OR THE AFFECTED PARTIES, IN RESPONDING TO THE MOTIONS AND PETITIONS.

15-14-415. Bond. UNLESS THE COURT MAKES SPECIFIC FINDINGS AS TO THE REASONS A BOND IS NOT REQUIRED IN THE PRESENT CASE, THE COURT SHALL REQUIRE A CONSERVATOR TO FURNISH A BOND CONDITIONED UPON FAITHFUL DISCHARGE OF ALL DUTIES OF THE CONSERVATORSHIP ACCORDING TO LAW, WITH SURETIES AS IT MAY SPECIFY. IN THE ALTERNATIVE, THE COURT MAY IMPOSE RESTRICTIONS UPON THE CONSERVATOR'S ACCESS TO, OR TRANSFER OF, THE ASSETS OF THE CONSERVATORSHIP ESTATE. UNLESS OTHERWISE DIRECTED BY THE COURT, THE COST OF THE BOND SHALL BE CHARGED TO THE PROTECTED PERSON'S ESTATE AND THE BOND MUST BE IN THE AMOUNT OF THE AGGREGATE CAPITAL VALUE OF THE PROPERTY OF THE ESTATE IN THE CONSERVATOR'S CONTROL, PLUS ONE YEAR'S ESTIMATED INCOME, AND MINUS THE VALUE OF ASSETS DEPOSITED UNDER ARRANGEMENTS REQUIRING AN ORDER OF THE COURT FOR THEIR REMOVAL AND THE VALUE OF ANY REAL PROPERTY THAT THE FIDUCIARY, BY EXPRESS LIMITATION, LACKS POWER TO SELL OR CONVEY WITHOUT COURT AUTHORIZATION. THE COURT, IN PLACE OF SURETIES ON A BOND, MAY ACCEPT COLLATERAL FOR THE PERFORMANCE OF THE BOND, INCLUDING A PLEDGE OF SECURITIES OR A MORTGAGE OF REAL PROPERTY.

15-14-416. Terms and requirements of bond. (1) THE FOLLOWING RULES APPLY TO ANY BOND REQUIRED:

(a) EXCEPT AS OTHERWISE PROVIDED BY THE TERMS OF THE BOND, SURETIES AND THE CONSERVATOR ARE JOINTLY AND SEVERALLY LIABLE.

(b) BY EXECUTING THE BOND OF A CONSERVATOR, A SURETY SUBMITS TO THE JURISDICTION OF THE COURT THAT ISSUED LETTERS TO THE PRIMARY OBLIGOR IN ANY PROCEEDING PERTAINING TO THE FIDUCIARY DUTIES OF THE CONSERVATOR IN WHICH THE SURETY IS NAMED AS A PARTY. NOTICE OF ANY PROCEEDING MUST BE SENT OR DELIVERED TO THE SURETY AT THE ADDRESS SHOWN IN THE COURT RECORDS AT THE PLACE WHERE THE BOND IS FILED AND TO ANY OTHER ADDRESS THEN KNOWN TO THE PETITIONER.

(c) ON PETITION OF A SUCCESSOR CONSERVATOR OR ANY INTERESTED PERSON, A PROCEEDING MAY BE BROUGHT AGAINST A SURETY FOR BREACH OF THE OBLIGATION OF THE BOND OF THE CONSERVATOR.

(d) THE BOND OF THE CONSERVATOR MAY BE PROCEEDED AGAINST UNTIL LIABILITY UNDER THE BOND IS EXHAUSTED.

(e) UNLESS OTHERWISE DIRECTED BY THE COURT, THE COST OF THE BOND SHALL BE PAID FROM THE PROTECTED PERSON'S ESTATE.

(2) A PROCEEDING MAY NOT BE BROUGHT AGAINST A SURETY ON ANY MATTER AS TO WHICH AN ACTION OR PROCEEDING AGAINST THE PRIMARY OBLIGOR IS BARRED.

(3) IF THERE IS A REQUEST FOR THE WAIVER OR REDUCTION OF A SURETY UPON A BOND, THE COURT MAY REQUIRE THE CONSERVATOR TO SUPPLY THE COURT WITH A CREDIT REPORT, A STATEMENT OF THE CONSERVATOR'S ASSETS, LIABILITIES, INCOME, AND EXPENSES, AND A STATEMENT ABOUT ANY INTERESTS THE CONSERVATOR MAY HAVE IN OR LIABILITY TO THE CONSERVATORSHIP ESTATE, OR ANY OTHER INFORMATION THE COURT MAY WISH TO CONSIDER.

15-14-417. Compensation, fees, costs, and expenses of administration - expenses. (1) **Compensation.** IF NOT OTHERWISE COMPENSATED FOR SERVICES RENDERED, ANY VISITOR, GUARDIAN, CONSERVATOR, SPECIAL CONSERVATOR, LAWYER FOR THE RESPONDENT, LAWYER WHOSE SERVICES RESULTED IN A PROTECTIVE ORDER OR IN AN ORDER BENEFICIAL TO AN INCAPACITATED PERSON OR TO A PROTECTED PERSON'S ESTATE, ANY PHYSICIAN, GUARDIAN AD LITEM, OR ANY OTHER PERSON APPOINTED BY THE COURT IS ENTITLED TO REASONABLE COMPENSATION FROM THE ESTATE EVEN IF NO FIDUCIARY IS APPOINTED. EXCEPT AS LIMITED BY COURT ORDER, COMPENSATION MAY BE PAID AND EXPENSES REIMBURSED WITHOUT COURT ORDER. IN A TEMPORARY CONSERVATORSHIP, COMPENSATION MAY ONLY BE PAID WITH COURT APPROVAL AFTER NOTICE AND HEARING. IF THE COURT DETERMINES THAT THE COMPENSATION IS EXCESSIVE OR THE EXPENSES ARE INAPPROPRIATE, THE EXCESSIVE OR INAPPROPRIATE AMOUNT MUST BE REPAID TO THE ESTATE.

(2) **Fees.** FACTORS TO BE CONSIDERED AS GUIDES IN DETERMINING THE REASONABLENESS OF ANY FEE REFERRED TO IN THIS SECTION OR IN THIS ARTICLE OR IN ARTICLE 16 OF THIS TITLE, INCLUDE THE FOLLOWING:

(a) THE TIME AND LABOR REQUIRED, THE NOVELTY AND DIFFICULTY OF THE QUESTIONS INVOLVED, AND THE SKILL REQUISITE TO PERFORM THE SERVICE PROPERLY;

(b) THE LIKELIHOOD, IF APPARENT, THAT THE ACCEPTANCE OF THE PARTICULAR EMPLOYMENT WILL PRECLUDE THE PERSON EMPLOYED FROM OTHER EMPLOYMENT;

(c) THE FEE CUSTOMARILY CHARGED IN THE LOCALITY FOR SIMILAR SERVICES;

(d) THE AMOUNT INVOLVED AND THE RESULTS OBTAINED;

(e) THE TIME LIMITATIONS IMPOSED BY THE CIRCUMSTANCES;

(f) THE EXPERIENCE, REPUTATION, AND ABILITY OF THE PERSON PERFORMING THE SERVICES.

(3) **Expenses in estate litigation.** FOR PURPOSES OF THIS ARTICLE OR ARTICLE 16 OF THIS TITLE, IF ANY GUARDIAN, CONSERVATOR, SPECIAL CONSERVATOR, OR COURT-APPOINTED FIDUCIARY DEFENDS OR PROSECUTES ANY PROCEEDING IN GOOD FAITH, WHETHER SUCCESSFUL OR NOT, HE OR SHE IS ENTITLED TO RECEIVE FROM THE ESTATE HIS OR HER NECESSARY TIME, EXPENSES, AND DISBURSEMENTS INCLUDING REASONABLE ATTORNEY FEES INCURRED. ANY SUCH PERSON OR FIDUCIARY WHO IS UNSUCCESSFUL IN DEFENDING THE PROPRIETY OF HIS OR HER ACTIONS IN A BREACH OF FIDUCIARY DUTY ACTION SHALL NOT BE ENTITLED TO RECOVER EXPENSES UNDER THIS SECTION TO THE EXTENT OF ANY MATTERS ON WHICH SUCH BREACHES ARE FOUND.

(4) **Expenses incurred in defense of fiduciary fees.** FOR PURPOSES OF THIS ARTICLE AND ARTICLE 16 OF THIS TITLE, IF ANY FIDUCIARY IS REQUIRED TO DEFEND HIS OR HER FEES OR COSTS, AT THE END OF THE PROCEEDINGS, THE COURT SHALL CONSIDER THE FEES AND EXPENSES INCURRED BY THE FIDUCIARY IN A FEE REVIEW. THE COURT HAS THE AUTHORITY AND DUTY TO DETERMINE WHETHER TO AWARD TO THE FIDUCIARY THE FIDUCIARY'S OWN FEES AND COSTS, INCLUDING THE FIDUCIARY'S OWN ATTORNEY FEES AND COSTS, INCURRED IN THE DEFENSE OF THE FIDUCIARY'S FEES AND COSTS AS THE COURT DEEMS EQUITABLE UNDER THE CIRCUMSTANCES OF THE CASE. ANY AWARD OF FEES OR COSTS TO THE FIDUCIARY MAY BE ORDERED PAID FROM, AND MAY BE ALLOCATED AMONG, THE ESTATE OR TRUST, OR FROM THE PERSON, PARTY, OR ORGANIZATION THAT REQUIRED THE FIDUCIARY TO DEFEND HIS OR HER FEES OR COSTS, AS THE COURT DEEMS JUST.

(5) **Priority for payment of guardianship or conservatorship costs and expenses of administration after the death of the incapacitated person or protected person.** WHEN AN INCAPACITATED PERSON OR A PROTECTED PERSON DIES, ALL FEES, COSTS, AND EXPENSES OF ADMINISTRATION OF THE GUARDIANSHIP OR CONSERVATORSHIP INCLUDING ANY UNPAID GUARDIAN OR CONSERVATOR FEES AND COSTS AND THOSE OF THEIR COUNSEL MAY BE SUBMITTED TO THE COURT FOR COURT APPROVAL IN CONJUNCTION WITH THE TERMINATION OF THE GUARDIANSHIP OR CONSERVATORSHIP ESTATE. THEREAFTER, ALL COURT-APPROVED FEES, COSTS, AND EXPENSES OF ADMINISTRATION ARISING FROM THE GUARDIANSHIP OR CONSERVATORSHIP SHALL BE PAID AS COURT-APPROVED CLAIMS FOR COSTS AND EXPENSES OF ADMINISTRATION IN THE DECEDENT'S ESTATE. IN THE EVENT THAT THERE ARE INSUFFICIENT FUNDS TO PAY ALL CLAIMS IN THE DECEDENT'S ESTATE IN FULL, THE FEES, COSTS, AND EXPENSES OF ADMINISTRATION ARISING FROM THE GUARDIANSHIP OR CONSERVATORSHIP SHALL RETAIN THEIR CLASSIFICATION AS "COSTS AND EXPENSES OF ADMINISTRATION" IN THE DECEDENT'S ESTATE AND SHALL BE PAID PURSUANT TO SECTION 15-12-805.

(6) A FIDUCIARY WHO IS A MEMBER OF A LAW FIRM MAY USE THAT LAW FIRM AND CHARGE FOR THE LEGAL SERVICES OF THE MEMBERS AND STAFF OF THAT FIRM TO ASSIST THE FIDUCIARY IN HIS OR HER DUTIES AS A FIDUCIARY.

15-14-418. General duties of conservator - financial plan. (1) A CONSERVATOR, IN RELATION TO POWERS CONFERRED BY THIS PART 4 OR IMPLICIT IN THE TITLE ACQUIRED BY VIRTUE OF THE PROCEEDING, IS A FIDUCIARY AND SHALL

OBSERVE THE STANDARDS OF CARE APPLICABLE TO A TRUSTEE.

(2) A CONSERVATOR SHALL TAKE INTO ACCOUNT THE LIMITATIONS OF THE PROTECTED PERSON, AND TO THE EXTENT POSSIBLE, AS DIRECTED BY THE ORDER OF APPOINTMENT OR THE FINANCIAL PLAN, ENCOURAGE THE PERSON TO PARTICIPATE IN DECISIONS, ACT IN THE PERSON'S OWN BEHALF, AND DEVELOP OR REGAIN THE ABILITY TO MANAGE THE PERSON'S ESTATE AND BUSINESS AFFAIRS.

(3) WITHIN A TIME SET BY THE COURT, BUT NO LATER THAN NINETY DAYS AFTER APPOINTMENT, A CONSERVATOR SHALL FILE FOR APPROVAL WITH THE APPOINTING COURT A FINANCIAL PLAN FOR PROTECTING, MANAGING, EXPENDING, AND DISTRIBUTING THE INCOME AND ASSETS OF THE PROTECTED PERSON'S ESTATE. THE FINANCIAL PLAN SHALL BE BASED UPON A COMPARISON OF THE PROJECTED INCOME AND EXPENSES OF THE PROTECTED PERSON AND SHALL SET FORTH A PLAN TO ADDRESS THE NEEDS OF THE PERSON AND HOW THE ASSETS AND INCOME OF THE PROTECTED PERSON SHALL BE MANAGED TO MEET THOSE NEEDS. THE FINANCIAL PLAN MUST BE BASED ON THE ACTUAL NEEDS OF THE PERSON AND TAKE INTO CONSIDERATION THE BEST INTEREST OF THE PERSON. THE CONSERVATOR SHALL INCLUDE IN THE FINANCIAL PLAN STEPS TO THE EXTENT POSSIBLE TO DEVELOP OR RESTORE THE PERSON'S ABILITY TO MANAGE THE PERSON'S PROPERTY, AN ESTIMATE OF THE DURATION OF THE CONSERVATORSHIP, AND PROJECTIONS OF EXPENSES AND RESOURCES.

(4) IN INVESTING AN ESTATE, SELECTING ASSETS OF THE ESTATE FOR DISTRIBUTION, AND INVOKING POWERS OF REVOCATION OR WITHDRAWAL AVAILABLE FOR THE USE AND BENEFIT OF THE PROTECTED PERSON AND EXERCISABLE BY THE CONSERVATOR, A CONSERVATOR SHALL TAKE INTO ACCOUNT ANY ESTATE PLAN OF THE PERSON KNOWN TO THE CONSERVATOR. THE CONSERVATOR MAY EXAMINE THE WILL AND ANY OTHER DONATIVE, NOMINATIVE, OR OTHER APPOINTIVE INSTRUMENT OF THE PERSON.

(5) A CONSERVATOR SHALL FILE AN AMENDED FINANCIAL PLAN WHENEVER THERE IS A CHANGE IN CIRCUMSTANCES THAT REQUIRES A SUBSTANTIAL DEVIATION FROM THE EXISTING FINANCIAL PLAN.

15-14-419. Inventory. (1) WITHIN A TIME SET BY THE COURT, BUT NO LATER THAN NINETY DAYS AFTER APPOINTMENT, A CONSERVATOR SHALL PREPARE AND FILE WITH THE APPOINTING COURT A DETAILED INVENTORY OF THE ESTATE SUBJECT TO THE CONSERVATORSHIP, TOGETHER WITH AN OATH OR AFFIRMATION THAT THE INVENTORY IS BELIEVED TO BE COMPLETE AND ACCURATE AS FAR AS INFORMATION PERMITS.

(2) IF ANY PROPERTY NOT INCLUDED IN THE ORIGINAL INVENTORY COMES TO THE KNOWLEDGE OF A CONSERVATOR OR IF THE CONSERVATOR LEARNS THAT THE VALUE OR DESCRIPTION INDICATED IN THE ORIGINAL INVENTORY FOR ANY ITEM IS ERRONEOUS OR MISLEADING, HE OR SHE SHALL PREPARE AN AMENDED INVENTORY AND FILE IT WITH THE COURT AND PROVIDE COPIES TO INTERESTED PARTIES AS DIRECTED BY PRIOR COURT ORDERS.

15-14-420. Reports - appointment of monitor - monitoring - records. (1) A CONSERVATOR SHALL REPORT TO THE COURT ABOUT THE ADMINISTRATION OF THE ESTATE ANNUALLY UNLESS THE COURT OTHERWISE DIRECTS. UPON FILING A PETITION OR MOTION AND AFTER NOTICE, A CONSERVATOR SHALL BE ENTITLED TO A HEARING

TO SETTLE ALL MATTERS COVERED IN AN INTERMEDIATE OR FINAL REPORT. AN ORDER, AFTER NOTICE AND HEARING, ALLOWING AN INTERMEDIATE REPORT OF A CONSERVATOR ADJUDICATES ALL OF THE CONSERVATOR'S, HIS OR HER OTHER COUNSEL'S, AND HIS OR HER OTHER AGENT'S LIABILITIES CONCERNING ALL MATTERS ADEQUATELY DISCLOSED IN THE REPORT. AN ORDER, AFTER NOTICE AND HEARING, ALLOWING A FINAL REPORT ADJUDICATES ALL PREVIOUSLY UNSETTLED LIABILITIES OF THE CONSERVATOR, HIS OR HER COUNSEL, AND THAT OF HIS OR HER AGENTS RELATING TO THE CONSERVATORSHIP, THE PROTECTED PERSON, OR THE PROTECTED PERSON'S SUCCESSORS.

(2) A REPORT MUST:

(a) CONTAIN A LIST OF THE ASSETS OF THE ESTATE UNDER THE CONSERVATOR'S CONTROL AND A LIST OF THE RECEIPTS, DISBURSEMENTS, AND DISTRIBUTIONS DURING THE PERIOD FOR WHICH THE REPORT IS MADE;

(b) REFLECT THE SERVICES PROVIDED TO THE PROTECTED PERSON; AND

(c) STATE ANY RECOMMENDED CHANGES IN THE PLAN FOR THE CONSERVATORSHIP AS WELL AS A RECOMMENDATION AS TO THE CONTINUED NEED FOR CONSERVATORSHIP AND ANY RECOMMENDED CHANGES IN THE SCOPE OF THE CONSERVATORSHIP.

(3) THE COURT MAY APPOINT A SUITABLE PERSON TO REVIEW A REPORT OR PLAN, INTERVIEW THE PROTECTED PERSON OR CONSERVATOR, AND MAKE ANY OTHER INVESTIGATION THE COURT DIRECTS. IN CONNECTION WITH A REPORT, THE COURT MAY ORDER A CONSERVATOR TO SUBMIT THE ASSETS OF THE ESTATE TO AN APPROPRIATE EXAMINATION TO BE MADE IN A MANNER THE COURT DIRECTS.

(4) THE COURT SHALL ESTABLISH A SYSTEM FOR MONITORING CONSERVATORSHIPS, INCLUDING THE FILING AND REVIEW OF CONSERVATORS' REPORTS AND PLANS.

(5) A CONSERVATOR SHALL KEEP RECORDS OF THE ADMINISTRATION OF THE ESTATE AND MAKE THEM AVAILABLE FOR EXAMINATION ON REASONABLE REQUEST OF AN INTERESTED PERSON.

15-14-421. Title by appointment. (1) EXCEPT AS LIMITED IN THE APPOINTING ORDER, THE APPOINTMENT OF A CONSERVATOR VESTS TITLE IN THE CONSERVATOR AS TRUSTEE TO ALL PROPERTY OF THE PROTECTED PERSON, OR TO THE PART THEREOF SPECIFIED IN THE ORDER, HELD AT THE TIME OF APPOINTMENT OR THEREAFTER ACQUIRED, INCLUDING TITLE TO ANY PROPERTY HELD FOR THE PROTECTED PERSON BY CUSTODIANS OR ATTORNEYS-IN-FACT. AN ORDER VESTING TITLE IN THE CONSERVATOR TO ONLY A PART OF THE PROPERTY OF THE PROTECTED PERSON CREATES A CONSERVATORSHIP LIMITED TO ASSETS SPECIFIED IN THE ORDER. NOTWITHSTANDING THE LANGUAGE VESTING TITLE IN THE CONSERVATOR IN THIS SECTION, THIS VESTING OF TITLE SHALL NOT BE CONSTRUED TO SEVER ANY JOINT TENANCIES.

(2) LETTERS OF CONSERVATORSHIP ARE EVIDENCE OF VESTING TITLE OF THE PROTECTED PERSON'S ASSETS IN THE CONSERVATOR. AN ORDER TERMINATING A CONSERVATORSHIP TRANSFERS TITLE TO ASSETS REMAINING SUBJECT TO THE CONSERVATORSHIP, INCLUDING ANY DESCRIBED IN THE ORDER, TO THE FORMERLY

PROTECTED PERSON OR THE PERSON'S SUCCESSORS.

(3) SUBJECT TO THE REQUIREMENTS OF OTHER STATUTES GOVERNING THE FILING OR RECORDATION OF DOCUMENTS OF TITLE TO LAND OR OTHER PROPERTY, LETTERS OF CONSERVATORSHIP AND ORDERS TERMINATING CONSERVATORSHIPS MAY BE FILED OR RECORDED TO GIVE NOTICE OF TITLE AS BETWEEN THE CONSERVATOR AND THE PROTECTED PERSON.

(4) NEITHER THE APPOINTMENT OF A CONSERVATOR NOR THE ESTABLISHMENT OF A TRUST IN ACCORDANCE WITH SECTION 15-14-412.5 TO 15-14-412.9 IS A TRANSFER OR AN ALIENATION WITHIN THE MEANING OF THE GENERAL PROVISIONS OF ANY FEDERAL OR STATE STATUTE OR REGULATION, INSURANCE POLICY, PENSION PLAN, CONTRACT, WILL OR TRUST INSTRUMENT IMPOSING RESTRICTIONS UPON OR PENALTIES FOR THE TRANSFER OR ALIENATION BY THE PROTECTED PERSON OF HIS OR HER RIGHTS OR INTEREST, BUT THIS SECTION DOES NOT RESTRICT THE ABILITY OF A PERSON TO MAKE SPECIFIC PROVISIONS BY CONTRACT OR DISPOSITIVE INSTRUMENT RELATING TO A CONSERVATOR.

(5) EXCEPT AS LIMITED IN THE APPOINTING ORDER, A CONSERVATOR HAS THE AUTHORITY TO CONTINUE, MODIFY, OR REVOKE ANY FINANCIAL POWER OF ATTORNEY PREVIOUSLY CREATED BY THE PROTECTED PERSON.

(6) (a) UPON NOTICE OF THE APPOINTMENT OF A CONSERVATOR, ALL AGENTS ACTING UNDER A PREVIOUSLY CREATED POWER OF ATTORNEY BY THE PROTECTED PERSON SHALL:

(I) TAKE NO FURTHER ACTIONS WITHOUT THE DIRECT WRITTEN AUTHORIZATION OF THE CONSERVATOR;

(II) SHALL PROMPTLY REPORT TO THE CONSERVATOR AS TO ANY ACTION TAKEN UNDER THE POWER OF ATTORNEY; AND

(III) SHALL PROMPTLY ACCOUNT TO THE CONSERVATOR FOR ALL ACTIONS TAKEN UNDER THE POWER OF ATTORNEY.

(b) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO AFFECT PREVIOUSLY CREATED MEDICAL DECISION-MAKING AUTHORITY. ANY AGENT VIOLATING THIS SECTION SHALL BE LIABLE TO THE PROTECTED PERSON'S ESTATE FOR ALL COSTS INCURRED IN ATTEMPTING TO OBTAIN COMPLIANCE, INCLUDING BUT NOT LIMITED TO REASONABLE CONSERVATOR AND ATTORNEY FEES AND COSTS.

15-14-422. Protected person's interest inalienable. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTIONS (3) AND (4) OF THIS SECTION, THE INTEREST OF A PROTECTED PERSON IN PROPERTY VESTED IN A CONSERVATOR IS NOT TRANSFERABLE OR ASSIGNABLE BY THE PROTECTED PERSON. AN ATTEMPTED TRANSFER OR ASSIGNMENT BY THE PROTECTED PERSON, ALTHOUGH INEFFECTIVE TO AFFECT PROPERTY RIGHTS, MAY GIVE RISE TO A CLAIM AGAINST THE PROTECTED PERSON FOR RESTITUTION OR DAMAGES THAT, SUBJECT TO PRESENTATION AND ALLOWANCE, MAY BE SATISFIED AS PROVIDED IN SECTION 15-14-429.

(2) PROPERTY VESTED IN A CONSERVATOR BY APPOINTMENT AND THE INTEREST OF

THE PROTECTED PERSON IN THAT PROPERTY ARE NOT SUBJECT TO LEVY, GARNISHMENT, OR SIMILAR PROCESS FOR CLAIMS AGAINST THE PROTECTED PERSON UNLESS ALLOWED UNDER SECTION 15-14-429.

(3) A PERSON WITHOUT KNOWLEDGE OF THE CONSERVATORSHIP WHO IN GOOD FAITH AND FOR SECURITY OR SUBSTANTIALLY EQUIVALENT VALUE RECEIVES DELIVERY FROM A PROTECTED PERSON OF TANGIBLE PERSONAL PROPERTY OF A TYPE NORMALLY TRANSFERRED BY DELIVERY OF POSSESSION, IS PROTECTED AS IF THE PROTECTED PERSON OR TRANSFEREE HAD VALID TITLE.

(4) A THIRD PARTY WHO DEALS WITH THE PROTECTED PERSON WITH RESPECT TO PROPERTY VESTED IN A CONSERVATOR IS ENTITLED TO ANY PROTECTION PROVIDED IN OTHER LAW.

15-14-423. Sale, encumbrance, or other transaction involving conflict of interest. ANY TRANSACTION INVOLVING THE CONSERVATORSHIP ESTATE THAT IS AFFECTED BY A SUBSTANTIAL CONFLICT BETWEEN THE CONSERVATOR'S FIDUCIARY AND PERSONAL INTERESTS IS VOIDABLE UNLESS THE TRANSACTION IS EXPRESSLY AUTHORIZED BY THE COURT AFTER NOTICE TO INTERESTED PERSONS. A TRANSACTION AFFECTED BY A SUBSTANTIAL CONFLICT BETWEEN PERSONAL AND FIDUCIARY INTERESTS INCLUDES ANY SALE, ENCUMBRANCE, OR OTHER TRANSACTION INVOLVING THE CONSERVATORSHIP ESTATE ENTERED INTO BY THE CONSERVATOR, THE SPOUSE, DESCENDANT, AGENT, OR LAWYER OF A CONSERVATOR, OR A CORPORATION OR OTHER ENTERPRISE IN WHICH THE CONSERVATOR HAS A SUBSTANTIAL BENEFICIAL INTEREST.

15-14-424. Protection of person dealing with conservator. (1) A PERSON WHO ASSISTS OR DEALS WITH A CONSERVATOR IN GOOD FAITH AND FOR VALUE IN ANY TRANSACTION OTHER THAN ONE REQUIRING A COURT ORDER UNDER SECTION 15-14-410 OR 15-14-411 IS PROTECTED AS THOUGH THE CONSERVATOR PROPERLY EXERCISED THE POWER. THAT A PERSON KNOWINGLY DEALS WITH A CONSERVATOR DOES NOT ALONE REQUIRE THE PERSON TO INQUIRE INTO THE EXISTENCE OF A POWER OR THE PROPRIETY OF ITS EXERCISE, BUT RESTRICTIONS ON POWERS OF CONSERVATORS THAT ARE ENDORSED ON LETTERS AS PROVIDED IN SECTION 15-14-110 ARE EFFECTIVE AS TO THIRD PERSONS. A PERSON WHO PAYS OR DELIVERS ASSETS TO A CONSERVATOR IS NOT RESPONSIBLE FOR THEIR PROPER APPLICATION.

(2) PROTECTION PROVIDED BY THIS SECTION EXTENDS TO ANY PROCEDURAL IRREGULARITY OR JURISDICTIONAL DEFECT THAT OCCURRED IN PROCEEDINGS LEADING TO THE ISSUANCE OF LETTERS AND IS NOT A SUBSTITUTE FOR PROTECTION PROVIDED TO PERSONS ASSISTING OR DEALING WITH A CONSERVATOR BY COMPARABLE PROVISIONS IN OTHER LAW RELATING TO COMMERCIAL TRANSACTIONS OR TO SIMPLIFYING TRANSFERS OF SECURITIES BY FIDUCIARIES.

(3) ANY RECORDED INSTRUMENT EVIDENCING A TRANSACTION DESCRIBED IN THIS SECTION ON WHICH A STATE DOCUMENTARY FEE IS NOTED PURSUANT TO SECTION 39-13-103, C.R.S., SHALL BE PRIMA FACIE EVIDENCE THAT SUCH TRANSACTION WAS MADE FOR VALUE.

15-14-425. Powers of conservator in administration. (1) EXCEPT AS OTHERWISE QUALIFIED OR LIMITED BY THE COURT IN ITS ORDER OF APPOINTMENT AND ENDORSED ON THE LETTERS, A CONSERVATOR HAS ALL OF THE POWERS GRANTED IN

THIS SECTION AND ANY ADDITIONAL POWERS GRANTED BY LAW TO A TRUSTEE IN THIS STATE.

(2) A CONSERVATOR, ACTING REASONABLY AND IN AN EFFORT TO ACCOMPLISH THE PURPOSE OF THE APPOINTMENT, AND WITHOUT FURTHER COURT AUTHORIZATION OR CONFIRMATION, MAY:

(a) COLLECT, HOLD, AND RETAIN ASSETS OF THE ESTATE, INCLUDING ASSETS IN WHICH THE CONSERVATOR HAS A PERSONAL INTEREST AND REAL PROPERTY IN ANOTHER STATE, UNTIL THE CONSERVATOR CONSIDERS THAT DISPOSITION OF AN ASSET SHOULD BE MADE;

(b) RECEIVE ADDITIONS TO THE ESTATE;

(c) CONTINUE OR PARTICIPATE IN THE OPERATION OF ANY BUSINESS OR OTHER ENTERPRISE;

(d) ACQUIRE AN UNDIVIDED INTEREST IN AN ASSET OF THE ESTATE IN WHICH THE CONSERVATOR, IN ANY FIDUCIARY CAPACITY, HOLDS AN UNDIVIDED INTEREST;

(e) INVEST ASSETS OF THE ESTATE AS THOUGH THE CONSERVATOR WERE A TRUSTEE;

(f) DEPOSIT MONEY OF THE ESTATE IN A FINANCIAL INSTITUTION, INCLUDING ONE OPERATED BY THE CONSERVATOR;

(g) ACQUIRE OR DISPOSE OF AN ASSET OF THE ESTATE, INCLUDING REAL PROPERTY IN ANOTHER STATE, FOR CASH OR ON CREDIT, AT PUBLIC OR PRIVATE SALE, AND MANAGE, DEVELOP, IMPROVE, EXCHANGE, PARTITION, CHANGE THE CHARACTER OF, OR ABANDON AN ASSET OF THE ESTATE;

(h) MAKE ORDINARY OR EXTRAORDINARY REPAIRS OR ALTERATIONS IN BUILDINGS OR OTHER STRUCTURES, DEMOLISH ANY IMPROVEMENTS, AND RAZE EXISTING OR ERECT NEW PARTY WALLS OR BUILDINGS;

(i) SUBDIVIDE, DEVELOP, OR DEDICATE LAND TO PUBLIC USE, MAKE OR OBTAIN THE VACATION OF PLATS AND ADJUST BOUNDARIES, ADJUST DIFFERENCES IN VALUATION OR EXCHANGE OR PARTITION BY GIVING OR RECEIVING CONSIDERATIONS, AND DEDICATE EASEMENTS TO PUBLIC USE WITHOUT CONSIDERATION;

(j) ENTER FOR ANY PURPOSE INTO A LEASE AS LESSOR OR LESSEE, WITH OR WITHOUT OPTION TO PURCHASE OR RENEW, FOR A TERM WITHIN OR EXTENDING BEYOND THE TERM OF THE CONSERVATORSHIP;

(k) ENTER INTO A LEASE OR ARRANGEMENT FOR EXPLORATION AND REMOVAL OF MINERALS OR OTHER NATURAL RESOURCES OR ENTER INTO A POOLING OR UNITIZATION AGREEMENT;

(l) GRANT AN OPTION INVOLVING DISPOSITION OF AN ASSET OF THE ESTATE AND TAKE AN OPTION FOR THE ACQUISITION OF ANY ASSET;

- (m) VOTE A SECURITY, IN PERSON OR BY GENERAL OR LIMITED PROXY;
- (n) PAY CALLS, ASSESSMENTS, AND ANY OTHER SUMS CHARGEABLE OR ACCRUING AGAINST OR ON ACCOUNT OF SECURITIES;
- (o) SELL OR EXERCISE STOCK SUBSCRIPTION OR CONVERSION RIGHTS;
- (p) CONSENT, DIRECTLY OR THROUGH A COMMITTEE OR OTHER AGENT, TO THE REORGANIZATION, CONSOLIDATION, MERGER, DISSOLUTION, OR LIQUIDATION OF A CORPORATION OR OTHER BUSINESS ENTERPRISE;
- (q) HOLD A SECURITY IN THE NAME OF A NOMINEE OR IN OTHER FORM WITHOUT DISCLOSURE OF THE CONSERVATORSHIP SO THAT TITLE TO THE SECURITY MAY PASS BY DELIVERY;
- (r) INSURE THE ASSETS OF THE ESTATE AGAINST DAMAGE OR LOSS AND THE CONSERVATOR AGAINST LIABILITY WITH RESPECT TO A THIRD PERSON;
- (s) BORROW MONEY, WITH OR WITHOUT SECURITY, TO BE REPAYED FROM THE ESTATE OR OTHERWISE AND ADVANCE MONEY FOR THE PROTECTION OF THE ESTATE OR THE PROTECTED PERSON AND FOR ALL EXPENSES, LOSSES, AND LIABILITY SUSTAINED IN THE ADMINISTRATION OF THE ESTATE OR BECAUSE OF THE HOLDING OR OWNERSHIP OF ANY ASSETS, FOR WHICH THE CONSERVATOR HAS A LIEN ON THE ESTATE AS AGAINST THE PROTECTED PERSON FOR ADVANCES SO MADE;
- (t) PAY OR CONTEST ANY CLAIM, SETTLE A CLAIM BY OR AGAINST THE ESTATE OR THE PROTECTED PERSON BY COMPROMISE, ARBITRATION, OR OTHERWISE, AND RELEASE, IN WHOLE OR IN PART, ANY CLAIM BELONGING TO THE ESTATE TO THE EXTENT THE CLAIM IS UNCOLLECTIBLE;
- (u) PAY TAXES, ASSESSMENTS, COMPENSATION OF THE CONSERVATOR AND ANY GUARDIAN, AND OTHER EXPENSES INCURRED IN THE COLLECTION, CARE, ADMINISTRATION, AND PROTECTION OF THE ESTATE;
- (v) ALLOCATE ITEMS OF INCOME OR EXPENSE TO INCOME OR PRINCIPAL OF THE ESTATE, AS PROVIDED BY OTHER LAW, INCLUDING CREATION OF RESERVES OUT OF INCOME FOR DEPRECIATION, OBSOLESCENCE, OR AMORTIZATION OR FOR DEPLETION OF MINERALS OR OTHER NATURAL RESOURCES;
- (w) PAY ANY SUM DISTRIBUTABLE TO A PROTECTED PERSON OR INDIVIDUAL WHO IS IN FACT DEPENDENT ON THE PROTECTED PERSON BY PAYING THE SUM TO THE DISTRIBUTEE OR BY PAYING THE SUM FOR THE USE OF THE DISTRIBUTEE:
 - (I) TO THE GUARDIAN OF THE DISTRIBUTEE;
 - (II) TO A DISTRIBUTEE'S CUSTODIAN UNDER THE "COLORADO UNIFORM TRANSFERS TO MINORS ACT", ARTICLE 50 OF TITLE 11, C.R.S., OR CUSTODIAL TRUSTEE UNDER THE "COLORADO UNIFORM CUSTODIAL TRUST ACT", ARTICLE 1.5 OF THIS TITLE; OR
 - (III) IF THERE IS NO GUARDIAN, CUSTODIAN, OR CUSTODIAL TRUSTEE, TO A RELATIVE OR OTHER PERSON HAVING PHYSICAL CUSTODY OF THE DISTRIBUTEE;

(x) PROSECUTE OR DEFEND ACTIONS, CLAIMS, OR PROCEEDINGS IN ANY JURISDICTION FOR THE PROTECTION OF ASSETS OF THE ESTATE AND OF THE CONSERVATOR IN THE PERFORMANCE OF FIDUCIARY DUTIES; AND

(y) EXECUTE AND DELIVER ALL INSTRUMENTS THAT WILL ACCOMPLISH OR FACILITATE THE EXERCISE OF THE POWERS VESTED IN THE CONSERVATOR.

(3) EXCEPT AS OTHERWISE QUALIFIED OR LIMITED BY THE COURT IN ITS ORDER OF APPOINTMENT AND ENDORSED ON THE LETTERS, A CONSERVATOR MAY EXERCISE ANY OF THE POWERS ENUMERATED IN THE "COLORADO FIDUCIARIES' POWERS ACT", PART 8 OF ARTICLE 1 OF THIS TITLE.

(4) THE COURT MAY CONFER ON A CONSERVATOR AT THE TIME OF APPOINTMENT OR LATER, IN ADDITION TO THE POWERS CONFERRED BY SECTIONS 15-14-425, 15-14-426, AND 15-14-427, ANY POWER THAT THE COURT ITSELF COULD EXERCISE UNDER SECTION 15-14-410. THE COURT MAY, AT THE TIME OF APPOINTMENT OR LATER, LIMIT THE POWERS OF A CONSERVATOR OTHERWISE CONFERRED BY SECTIONS 15-14-425, 15-14-426, AND 15-14-427, OR PREVIOUSLY CONFERRED BY THE COURT, AND MAY AT ANY TIME RELIEVE THE CONSERVATOR OF ANY LIMITATION. IF THE COURT LIMITS ANY POWER CONFERRED ON THE CONSERVATOR BY SECTION 15-14-425, 15-14-426, OR 15-14-427 OR SPECIFIES, AS PROVIDED IN SECTION 15-14-421 (1) THAT TITLE TO SOME BUT NOT ALL ASSETS OF THE PROTECTED PERSON VEST IN THE CONSERVATOR, THE LIMITATION SHALL BE ENDORSED UPON THE CONSERVATOR'S LETTERS OF APPOINTMENT.

(5) IN INVESTING THE ESTATE, AND IN SELECTING ASSETS OF THE ESTATE FOR DISTRIBUTION UNDER SECTION 15-14-427, IN UTILIZING POWERS OF REVOCATION OR WITHDRAWAL AVAILABLE FOR THE SUPPORT OF THE PROTECTED PERSON AND EXERCISABLE BY THE CONSERVATOR OR THE COURT, AND IN EXERCISING ANY OTHER POWERS VESTED IN THEM, THE CONSERVATOR AND THE COURT SHOULD TAKE INTO ACCOUNT ANY KNOWN ESTATE PLAN OF THE PROTECTED PERSON, INCLUDING HIS OR HER WILL, ANY REVOCABLE TRUST OF WHICH HE OR SHE IS SETTLOR, AND ANY CONTRACT, TRANSFER, OR JOINT OWNERSHIP ARRANGEMENT WITH PROVISIONS FOR PAYMENT OR TRANSFER OF BENEFITS OR INTERESTS AT HIS OR HER DEATH TO ANOTHER OR OTHERS WHICH HE OR SHE MAY HAVE ORIGINATED. THE CONSERVATOR MAY EXAMINE THE WILL OF THE PROTECTED PERSON.

15-14-425.5. Authority to petition for dissolution of marriage or legal separation. (1) THE CONSERVATOR MAY PETITION THE COURT FOR AUTHORITY TO COMMENCE AND MAINTAIN AN ACTION FOR DISSOLUTION OF MARRIAGE OR LEGAL SEPARATION ON BEHALF OF THE PROTECTED PERSON. THE COURT MAY GRANT SUCH AUTHORITY ONLY IF SATISFIED, AFTER NOTICE AND HEARING, THAT:

(a) IT IS IN THE BEST INTERESTS OF THE PROTECTED PERSON BASED ON EVIDENCE OF ABANDONMENT, ABUSE, EXPLOITATION, OR OTHER COMPELLING CIRCUMSTANCES, AND THE PROTECTED PERSON EITHER IS INCAPABLE OF CONSENTING; OR

(b) THE PROTECTED PERSON HAS CONSENTED TO THE PROPOSED DISSOLUTION OF MARRIAGE OR LEGAL SEPARATION.

(2) NOTHING IN THIS SECTION SHALL BE CONSTRUED AS MODIFYING THE

STATUTORY GROUNDS FOR DISSOLUTION OF MARRIAGE AND LEGAL SEPARATION AS SET FORTH IN SECTION 14-10-106, C.R.S.

15-14-426. Delegation. (1) A CONSERVATOR MAY NOT DELEGATE TO AN AGENT OR ANOTHER CONSERVATOR THE ENTIRE ADMINISTRATION OF THE ESTATE, BUT A CONSERVATOR MAY OTHERWISE DELEGATE THE PERFORMANCE OF FUNCTIONS THAT A PRUDENT TRUSTEE OF COMPARABLE SKILLS MAY DELEGATE UNDER SIMILAR CIRCUMSTANCES.

(2) THE CONSERVATOR SHALL EXERCISE REASONABLE CARE, SKILL, AND CAUTION IN:

(a) SELECTING AN AGENT;

(b) ESTABLISHING THE SCOPE AND TERMS OF A DELEGATION, CONSISTENT WITH THE PURPOSES AND TERMS OF THE CONSERVATORSHIP;

(c) PERIODICALLY REVIEWING AN AGENT'S OVERALL PERFORMANCE AND COMPLIANCE WITH THE TERMS OF THE DELEGATION; AND

(d) REDRESSING AN ACTION OR DECISION OF AN AGENT THAT WOULD CONSTITUTE A BREACH OF TRUST IF PERFORMED BY THE CONSERVATOR.

(3) A CONSERVATOR WHO COMPLIES WITH SUBSECTIONS (1) AND (2) OF THIS SECTION IS NOT LIABLE TO THE PROTECTED PERSON OR TO THE ESTATE OR TO THE PROTECTED PERSON'S SUCCESSORS FOR THE DECISIONS OR ACTIONS OF THE AGENT TO WHOM A FUNCTION WAS DELEGATED.

(4) IN PERFORMING A DELEGATED FUNCTION, AN AGENT SHALL EXERCISE REASONABLE CARE TO COMPLY WITH THE TERMS OF THE DELEGATION.

(5) BY ACCEPTING A DELEGATION FROM A CONSERVATOR SUBJECT TO THE LAWS OF THIS STATE, AN AGENT SUBMITS TO THE JURISDICTION OF THE COURTS OF THIS STATE.

15-14-427. Principles of distribution by conservator. (1) UNLESS OTHERWISE SPECIFIED IN THE ORDER OF APPOINTMENT AND ENDORSED ON THE LETTERS OF APPOINTMENT OR CONTRARY TO THE FINANCIAL PLAN FILED PURSUANT TO SECTION 15-14-418, A CONSERVATOR MAY EXPEND OR DISTRIBUTE INCOME OR PRINCIPAL OF THE ESTATE OF THE PROTECTED PERSON WITHOUT FURTHER COURT AUTHORIZATION OR CONFIRMATION FOR THE SUPPORT, CARE, EDUCATION, HEALTH, AND WELFARE OF THE PROTECTED PERSON AND INDIVIDUALS WHO ARE IN FACT DEPENDENT ON THE PROTECTED PERSON, INCLUDING THE PAYMENT OF CHILD SUPPORT OR SPOUSAL MAINTENANCE, IN ACCORDANCE WITH THE FOLLOWING RULES:

(a) A CONSERVATOR SHALL CONSIDER RECOMMENDATIONS RELATING TO THE APPROPRIATE STANDARD OF SUPPORT, CARE, EDUCATION, HEALTH, AND WELFARE FOR THE PROTECTED PERSON OR AN INDIVIDUAL WHO IS IN FACT DEPENDENT ON THE PROTECTED PERSON MADE BY A GUARDIAN, IF ANY, AND, IF THE PROTECTED PERSON IS A MINOR, THE CONSERVATOR SHALL CONSIDER RECOMMENDATIONS MADE BY A PARENT.

(b) A CONSERVATOR MAY NOT BE SURCHARGED FOR MONEY PAID TO PERSONS FURNISHING SUPPORT, CARE, EDUCATION, OR BENEFIT TO A PROTECTED PERSON, OR AN INDIVIDUAL WHO IS IN FACT DEPENDENT ON THE PROTECTED PERSON, IN ACCORDANCE WITH THE RECOMMENDATIONS OF A PARENT OR GUARDIAN OF THE PROTECTED PERSON UNLESS THE CONSERVATOR KNOWS THAT THE PARENT OR GUARDIAN DERIVES PERSONAL FINANCIAL BENEFIT THEREFROM, INCLUDING RELIEF FROM ANY PERSONAL DUTY OF SUPPORT, OR THE RECOMMENDATIONS ARE NOT IN THE BEST INTEREST OF THE PROTECTED PERSON.

(c) IN MAKING DISTRIBUTIONS UNDER THIS PARAGRAPH (c), THE CONSERVATOR SHALL CONSIDER:

(I) THE SIZE OF THE ESTATE, THE ESTIMATED DURATION OF THE CONSERVATORSHIP, AND THE LIKELIHOOD THAT THE PROTECTED PERSON, AT SOME FUTURE TIME, MAY BE FULLY SELF-SUFFICIENT AND ABLE TO MANAGE HIS OR HER BUSINESS AFFAIRS AND THE ESTATE;

(II) THE ACCUSTOMED STANDARD OF LIVING OF THE PROTECTED PERSON AND INDIVIDUALS WHO ARE IN FACT DEPENDENT ON THE PROTECTED PERSON; AND

(III) OTHER MONEY OR SOURCES USED FOR THE SUPPORT OF THE PROTECTED PERSON.

(d) MONEY EXPENDED UNDER THIS PARAGRAPH (d) MAY BE PAID BY THE CONSERVATOR TO ANY PERSON, INCLUDING THE PROTECTED PERSON, AS REIMBURSEMENT FOR EXPENDITURES THAT THE CONSERVATOR MIGHT HAVE MADE, OR IN ADVANCE FOR SERVICES TO BE RENDERED TO THE PROTECTED PERSON IF IT IS REASONABLE TO EXPECT THE SERVICES WILL BE PERFORMED AND ADVANCE PAYMENTS ARE CUSTOMARY OR REASONABLY NECESSARY UNDER THE CIRCUMSTANCES.

(2) IF AN ESTATE IS AMPLE TO PROVIDE FOR THE DISTRIBUTIONS AUTHORIZED BY SUBSECTION (1) OF THIS SECTION, A CONSERVATOR FOR A PROTECTED PERSON OTHER THAN A MINOR MAY MAKE GIFTS THAT THE PROTECTED PERSON MIGHT HAVE BEEN EXPECTED TO MAKE, IN AMOUNTS THAT DO NOT EXCEED IN THE AGGREGATE FOR ANY CALENDAR YEAR TWENTY PERCENT OF THE INCOME OF THE ESTATE IN THAT YEAR.

15-14-428. Death of protected person. (1) IF A PROTECTED PERSON DIES, THE CONSERVATOR SHALL DELIVER TO THE COURT FOR SAFEKEEPING ANY WILL OF THE PROTECTED PERSON THAT IS IN THE CONSERVATOR'S POSSESSION OR CONTROL, INFORM THE PERSONAL REPRESENTATIVE OR DEVISEES NAMED IN THE WILL OF THE DELIVERY, AND RETAIN THE ESTATE FOR DELIVERY TO THE PERSONAL REPRESENTATIVE OF THE DECEDENT OR TO ANOTHER PERSON ENTITLED TO IT.

(2) AFTER THE DEATH OF THE PROTECTED PERSON, THE CONSERVATOR SHALL MAKE NO EXPENDITURES OF CONSERVATORSHIP FUNDS EXCEPT WITH COURT AUTHORIZATION OTHER THAN NECESSARY TO PRESERVE THE ASSETS OF THE ESTATE. HOWEVER, THE CONSERVATOR MAY RELEASE FUNDS FOR THE FUNERAL, CREMATION, OR BURIAL OF THE DECEASED PROTECTED PERSON IF NECESSARY TO DO SO UNDER THE CIRCUMSTANCES.

15-14-429. Presentation and allowance of claims. (1) A CONSERVATOR MAY PAY, OR SECURE BY ENCUMBERING ASSETS OF THE ESTATE, CLAIMS AGAINST THE ESTATE OR AGAINST THE PROTECTED PERSON ARISING BEFORE OR DURING THE CONSERVATORSHIP UPON THEIR PRESENTATION AND ALLOWANCE IN ACCORDANCE WITH THE PRIORITIES STATED IN SUBSECTION (4) OF THIS SECTION. A CLAIMANT MAY PRESENT A CLAIM BY:

(a) SENDING OR DELIVERING TO THE CONSERVATOR A WRITTEN STATEMENT OF THE CLAIM, INDICATING ITS BASIS, THE NAME AND ADDRESS OF THE CLAIMANT, AND THE AMOUNT CLAIMED; OR

(b) FILING A WRITTEN STATEMENT OF THE CLAIM, IN A FORM PRESCRIBED BY RULE, WITH THE CLERK OF THE COURT AND SENDING OR DELIVERING A COPY OF THE STATEMENT TO THE CONSERVATOR.

(2) A CLAIM IS DEEMED PRESENTED ON RECEIPT OF THE WRITTEN STATEMENT OF CLAIM BY THE CONSERVATOR OR THE FILING OF THE CLAIM WITH THE COURT, WHICHEVER FIRST OCCURS. A PRESENTED CLAIM IS ALLOWED IF IT IS NOT DISALLOWED BY WRITTEN STATEMENT SENT OR DELIVERED BY THE CONSERVATOR TO THE CLAIMANT WITHIN SIXTY DAYS AFTER ITS PRESENTATION. THE CONSERVATOR BEFORE PAYMENT MAY CHANGE AN ALLOWANCE TO A DISALLOWANCE IN WHOLE OR IN PART, BUT NOT AFTER ALLOWANCE UNDER A COURT ORDER OR JUDGMENT OR AN ORDER DIRECTING PAYMENT OF THE CLAIM. THE PRESENTATION OF A CLAIM TOLLS THE RUNNING OF ANY STATUTE OF LIMITATIONS RELATING TO THE CLAIM UNTIL THIRTY DAYS AFTER ITS DISALLOWANCE. IF A CLAIM IS NOT YET DUE, THE DATE WHEN IT WILL BECOME DUE SHALL BE STATED. IF A CLAIM IS CONTINGENT OR UNLIQUIDATED, THE NATURE OF THE UNCERTAINTY OR THE ANTICIPATED DUE DATE OF THE CLAIM SHALL BE STATED.

(3) A CLAIMANT WHOSE CLAIM HAS NOT BEEN PAID MAY PETITION THE COURT FOR DETERMINATION OF THE CLAIM AT ANY TIME BEFORE IT IS BARRED BY A STATUTE OF LIMITATIONS AND, UPON DUE PROOF, PROCURE AN ORDER FOR ITS ALLOWANCE, PAYMENT, OR SECURITY BY ENCUMBERING ASSETS OF THE ESTATE. IF A PROCEEDING IS PENDING AGAINST A PROTECTED PERSON AT THE TIME OF APPOINTMENT OF A CONSERVATOR OR IS INITIATED AGAINST THE PROTECTED PERSON THEREAFTER, THE MOVING PARTY SHALL GIVE TO THE CONSERVATOR NOTICE OF ANY PROCEEDING THAT COULD RESULT IN CREATING A CLAIM AGAINST THE ESTATE.

(4) IF IT APPEARS THAT THE ESTATE IS LIKELY TO BE EXHAUSTED BEFORE ALL EXISTING CLAIMS ARE PAID, THE CONSERVATOR SHALL DISTRIBUTE THE ESTATE IN MONEY OR IN KIND IN PAYMENT OF CLAIMS IN THE FOLLOWING ORDER:

(a) COSTS AND EXPENSES OF ADMINISTRATION;

(b) CLAIMS OF THE FEDERAL OR STATE GOVERNMENT HAVING PRIORITY UNDER OTHER LAW;

(c) CLAIMS INCURRED BY THE CONSERVATOR FOR SUPPORT, CARE, EDUCATION, HEALTH, AND WELFARE PREVIOUSLY PROVIDED TO THE PROTECTED PERSON OR INDIVIDUALS WHO ARE IN FACT DEPENDENT ON THE PROTECTED PERSON;

(d) CLAIMS ARISING BEFORE THE CONSERVATORSHIP; AND

(e) ALL OTHER CLAIMS.

(5) ALLOWED CLAIMS WITHIN THE SAME CLASS SHALL BE PAID PRO RATA. PREFERENCE MAY NOT BE GIVEN IN THE PAYMENT OF A CLAIM OVER ANY OTHER CLAIM OF THE SAME CLASS, AND A CLAIM DUE AND PAYABLE MAY NOT BE PREFERRED OVER A CLAIM NOT DUE.

(6) IF ASSETS OF THE CONSERVATORSHIP ARE ADEQUATE TO MEET ALL EXISTING CLAIMS, THE COURT, ACTING IN THE BEST INTEREST OF THE PROTECTED PERSON, MAY ORDER THE CONSERVATOR TO GRANT A SECURITY INTEREST IN THE CONSERVATORSHIP ESTATE FOR THE PAYMENT OF ANY OR ALL CLAIMS AT A FUTURE DATE.

(7) NOTHING IN THIS SECTION AFFECTS OR PREVENTS:

(a) ANY PROCEEDING TO ENFORCE ANY MORTGAGE, PLEDGE, OR OTHER LIEN UPON PROPERTY OF THE ESTATE; OR

(b) TO THE LIMITS OF THE INSURANCE PROTECTION ONLY, ANY PROCEEDING TO ESTABLISH LIABILITY OF THE PROTECTED PERSON FOR WHICH HE OR SHE IS PROTECTED BY LIABILITY INSURANCE.

(8) UNLESS OTHERWISE PROVIDED IN ANY JUDGMENT IN ANOTHER COURT ENTERED AGAINST THE PROTECTED PERSON OR THE PROTECTED PERSON'S ESTATE, AN ALLOWED CLAIM BEARS INTEREST AT THE LEGAL RATE FOR THE PERIOD COMMENCING SIXTY DAYS AFTER THE TIME THE CLAIM WAS ORIGINALLY FILED WITH THE COURT OR DELIVERED TO THE CONSERVATOR, UNLESS BASED ON A CONTRACT MAKING A PROVISION FOR INTEREST, IN WHICH CASE, SUCH CLAIM BEARS INTEREST IN ACCORDANCE WITH THAT CONTRACT'S PROVISIONS.

15-14-430. Personal liability of conservator. (1) EXCEPT AS OTHERWISE PROVIDED IN THE CONTRACT, A CONSERVATOR IS NOT PERSONALLY LIABLE ON A CONTRACT PROPERLY ENTERED INTO IN A FIDUCIARY CAPACITY IN THE COURSE OF ADMINISTRATION OF THE ESTATE UNLESS THE CONSERVATOR FAILS TO REVEAL IN THE CONTRACT THE REPRESENTATIVE CAPACITY AND IDENTIFY THE ESTATE.

(2) A CONSERVATOR IS PERSONALLY LIABLE FOR OBLIGATIONS ARISING FROM OWNERSHIP OR CONTROL OF PROPERTY OF THE ESTATE OR FOR OTHER ACTS OR OMISSIONS OCCURRING IN THE COURSE OF ADMINISTRATION OF THE ESTATE ONLY IF PERSONALLY AT FAULT.

(3) CLAIMS BASED ON CONTRACTS ENTERED INTO BY A CONSERVATOR IN A FIDUCIARY CAPACITY, OBLIGATIONS ARISING FROM OWNERSHIP OR CONTROL OF THE ESTATE, AND CLAIMS BASED ON TORTS COMMITTED IN THE COURSE OF ADMINISTRATION OF THE ESTATE MAY BE ASSERTED AGAINST THE ESTATE BY PROCEEDING AGAINST THE CONSERVATOR IN A FIDUCIARY CAPACITY, WHETHER OR NOT THE CONSERVATOR IS PERSONALLY LIABLE THEREFOR.

(4) A QUESTION OF LIABILITY BETWEEN THE ESTATE AND THE CONSERVATOR PERSONALLY MAY BE DETERMINED IN A PROCEEDING FOR ACCOUNTING, SURCHARGE,

OR INDEMNIFICATION, OR IN ANOTHER APPROPRIATE PROCEEDING OR ACTION.

(5) A CONSERVATOR IS NOT PERSONALLY LIABLE FOR ANY ENVIRONMENTAL CONDITION ON OR INJURY RESULTING FROM ANY ENVIRONMENTAL CONDITION ON LAND SOLELY BY REASON OF AN ACQUISITION OF TITLE UNDER SECTION 15-14-421.

15-14-431. Termination of proceedings. (1) A CONSERVATORSHIP TERMINATES UPON THE DEATH OF THE PROTECTED PERSON OR UPON ORDER OF THE COURT DETERMINING THAT A CONSERVATORSHIP IS NO LONGER NECESSARY OR NEEDED TO PROTECT THE ASSETS OF THE PROTECTED PERSON. UNLESS CREATED FOR REASONS OTHER THAN THAT THE PROTECTED PERSON IS A MINOR, A CONSERVATORSHIP CREATED FOR A MINOR ALSO TERMINATES WHEN THE PROTECTED PERSON ATTAINS THE AGE OF TWENTY-ONE YEARS. UPON LEARNING OF THE PROTECTED PERSON'S DEATH, THE CONSERVATOR SHALL PROMPTLY GIVE NOTICE OF DEATH TO THE COURT AND ALL OTHER PERSONS DESIGNATED TO RECEIVE NOTICE OF SUBSEQUENT ACTIONS IN THE ORDER APPOINTING THE CONSERVATOR.

(2) UPON RECEIVING AN ORDER TERMINATING THE CONSERVATORSHIP OR UPON RECEIVING NOTICE OF THE DEATH OF A PROTECTED PERSON, THE CONSERVATOR SHALL CONCLUDE THE ADMINISTRATION OF THE ESTATE BY FILING A FINAL REPORT AND A PETITION FOR DISCHARGE WITHIN SIXTY DAYS AFTER DISTRIBUTION UNLESS OTHERWISE DIRECTED BY THE COURT.

(3) ON PETITION OF A PROTECTED PERSON, A CONSERVATOR, OR ANOTHER PERSON INTERESTED IN A PROTECTED PERSON'S WELFARE, THE COURT MAY TERMINATE THE CONSERVATORSHIP IF THE PROTECTED PERSON NO LONGER MEETS THE STATUTORY REQUIREMENTS FOR THE CREATION OF A CONSERVATORSHIP. TERMINATION OF THE CONSERVATORSHIP WITHOUT A DECREE OF DISCHARGE DOES NOT AFFECT A CONSERVATOR'S LIABILITY FOR PREVIOUS ACTS OR THE OBLIGATION TO ACCOUNT FOR FUNDS AND ASSETS OF THE PROTECTED PERSON.

(4) EXCEPT AS OTHERWISE ORDERED BY THE COURT FOR GOOD CAUSE, BEFORE TERMINATING A CONSERVATORSHIP, THE COURT SHALL FOLLOW THE SAME PROCEDURES TO SAFEGUARD THE RIGHTS OF THE PROTECTED PERSON THAT APPLY TO A PETITION FOR CONSERVATORSHIP. THE COURT SHALL ORDER TERMINATION UNLESS IT IS PROVED BY CLEAR AND CONVINCING EVIDENCE THAT CONTINUATION OF THE CONSERVATORSHIP IS STILL STATUTORILY WARRANTED AND IS STILL IN THE BEST INTEREST OF THE PROTECTED PERSON.

(5) UPON TERMINATION OF A CONSERVATORSHIP AND WHETHER OR NOT FORMALLY DISTRIBUTED BY THE CONSERVATOR, TITLE TO ASSETS OF THE ESTATE PASSES TO THE FORMERLY PROTECTED PERSON, THE FORMER PROTECTED PERSON'S SUCCESSORS, OR AS ORDERED BY THE COURT. THE ORDER OF TERMINATION MUST PROVIDE FOR THE PAYMENT OF ALL FEES, COSTS, AND EXPENSES OF ADMINISTRATION AND DIRECT THE CONSERVATOR TO FILE APPROPRIATE INSTRUMENTS TO EVIDENCE THE TRANSFER OF TITLE OR CONFIRM THE ORDERED DISTRIBUTION PURSUANT TO THE SCHEDULE OF DISTRIBUTION PRIOR TO RECEIVING THE DECREE OF DISCHARGE.

(6) THE COURT SHALL ENTER A DECREE OF DISCHARGE UPON BEING FULLY SATISFIED THAT THE CONSERVATOR HAS MET ALL CONDITIONS REQUIRED BY THE COURT FOR THE CONSERVATOR'S DISCHARGE.

15-14-432. Payment of debt and delivery of property to foreign conservator without local proceeding. (1) A PERSON WHO IS INDEBTED TO OR HAS THE POSSESSION OF TANGIBLE OR INTANGIBLE PROPERTY OF A PROTECTED PERSON MAY PAY THE DEBT OR DELIVER THE PROPERTY TO A FOREIGN CONSERVATOR, GUARDIAN OF THE ESTATE, OR OTHER COURT-APPOINTED FIDUCIARY OF THE STATE OF RESIDENCE OF THE PROTECTED PERSON. PAYMENT OR DELIVERY MAY BE MADE ONLY UPON PROOF OF APPOINTMENT AND PRESENTATION OF AN AFFIDAVIT MADE BY OR ON BEHALF OF THE FIDUCIARY STATING THAT A PROTECTIVE PROCEEDING RELATING TO THE PROTECTED PERSON IS NOT PENDING IN THIS STATE AND THE FOREIGN FIDUCIARY IS ENTITLED TO PAYMENT OR TO RECEIVE DELIVERY.

(2) PAYMENT OR DELIVERY IN ACCORDANCE WITH SUBSECTION (1) OF THIS SECTION DISCHARGES THE DEBTOR OR POSSESSOR, ABSENT KNOWLEDGE OF ANY PROTECTIVE PROCEEDING PENDING IN THIS STATE.

15-14-433. Foreign conservator - proof of authority - bond - powers. IF A CONSERVATOR HAS NOT BEEN APPOINTED IN THIS STATE AND A PETITION IN A PROTECTIVE PROCEEDING IS NOT PENDING IN THIS STATE, A CONSERVATOR APPOINTED IN THE STATE IN WHICH THE PROTECTED PERSON RESIDES MAY FILE IN A DISTRICT OR PROBATE COURT OF THIS STATE, IN A COUNTY IN WHICH PROPERTY BELONGING TO THE PROTECTED PERSON IS LOCATED, AUTHENTICATED COPIES OF LETTERS OF APPOINTMENT AND OF ANY BOND. THEREAFTER, THE CONSERVATOR MAY EXERCISE ALL POWERS OF A CONSERVATOR APPOINTED IN THIS STATE AS TO PROPERTY IN THIS STATE AND MAY MAINTAIN ACTIONS AND PROCEEDINGS IN THIS STATE SUBJECT TO ANY CONDITIONS OTHERWISE IMPOSED UPON NONRESIDENT PARTIES.

SECTION 2. 11-50-102 (5), Colorado Revised Statutes, is amended to read:

11-50-102. Definitions. As used in this article, unless the context otherwise requires:

(5) "Court" means the district or probate court which would have jurisdiction of the minor's estate, if he had property other than custodial property, as provided in ~~section 15-14-205~~ SECTION 15-14-108 (1), C.R.S.

SECTION 3. 13-9-103 (7), Colorado Revised Statutes, is amended to read:

13-9-103. Jurisdiction. (7) With respect to any trust established by or for an individual with his or her assets, income, or property of any kind, notwithstanding any statutory provision to the contrary, the court shall not authorize, direct, or ratify any trust that either has the effect of qualifying or purports to qualify the trust beneficiary for federal supplemental security income, or public or medical assistance pursuant to title 26, C.R.S., unless the trust meets the criteria set forth in ~~sections 15-14-409.6 to 15-14-409.9~~ SECTIONS 15-14-412.6 TO 15-14-412.9, C.R.S., and any rule adopted by the medical services board pursuant to section 26-4-506.6, C.R.S.

SECTION 4. 13-32-101 (2), Colorado Revised Statutes, is amended to read:

13-32-101. Docket fees in civil actions - support registry fund created - repeal. (2) No docket fee shall be charged in mental health proceedings under article 10 or 10.5 of title 27, C.R.S.; but, where an estate is thereafter probated for

any mental incompetent, the committing court has a claim against such estate, as a cost of the mental health proceedings, in the sum of twenty dollars, in addition to any other expense of commitment allowed and paid by the county, to be paid by the conservator of such estate as a claim pursuant to ~~section 15-14-428 (3)~~ SECTION 15-14-429, C.R.S.

SECTION 5. 13-32-102 (1) (a), Colorado Revised Statutes, is amended to read:

13-32-102. Fees in probate proceedings. (1) For services rendered by judges and clerks of district or probate courts in all counties of the state of Colorado in proceedings had pursuant to articles 10 to 17 of title 15, C.R.S., the following fees shall be charged:

(a) Docket fee at the time of filing first papers in any decedent's estate eligible for summary administrative procedures under section 15-12-1203, C.R.S., or in any small estate of a person under disability qualifying under ~~section 15-14-107~~ SECTION 15-14-118, C.R.S., which estates involve no real property \$25.00

SECTION 6. 13-64-205 (1) (f) (II), Colorado Revised Statutes, is amended to read:

13-64-205. Determination of judgment to be entered. (1) In order to determine what judgment is to be entered on a verdict requiring findings of special damages under this part 2, the court shall proceed as follows:

(f) Within no more than three months after the entry of verdict by the trier of fact and before the court enters judgment for periodic payments, the plaintiff who meets the criteria set forth in this subsection (1) may elect to receive the immediate payment to the plaintiff of the present value of the future damage award in a lump-sum amount in lieu of periodic payments. In order to exercise this right, the plaintiff must:

(II) Not be an incapacitated person, as defined in ~~section 15-14-101 (1)~~ SECTION 15-14-102 (5), C.R.S.; and

SECTION 7. 14-10-107 (3), Colorado Revised Statutes, is amended to read:

14-10-107. Commencement - pleadings - abolition of existing defenses - automatic, temporary injunction - enforcement. (3) Either or both parties to the marriage may initiate the proceeding. In addition, a legal guardian, with court approval pursuant to ~~section 15-14-312 (3)~~ SECTION 15-14-315.5, C.R.S., or a conservator, with court approval pursuant to section 15-14-425.5, C.R.S., may initiate the proceeding. If a legal guardian or conservator initiates the proceeding, the legal guardian or conservator shall receive notice in the same manner as the parties to the proceeding.

SECTION 8. 15-10-201 (25), (26), (43), (44), and (58), Colorado Revised Statutes, are amended to read:

15-10-201. General definitions. Subject to additional definitions contained in the subsequent articles that are applicable to specific articles, parts, or sections, and unless the context otherwise requires, in this code:

(25) "Incapacitated person" means an individual described in ~~section 15-14-101~~ ~~(1)~~ SECTION 15-14-102 (5).

(26) "Informal proceedings" means those conducted without notice to interested persons by an officer of the court acting as a registrar for probate of a will, appointment of a personal representative, or determination of a guardian under sections 15-14-202 ~~(2)~~ and 15-14-301.

(43) "Protected person" has the same meaning as set forth in ~~section 15-14-101 (2)~~ SECTION 15-14-102 (11).

(44) "Protective proceeding" has the same meaning as ~~set forth~~ USED in ~~section 15-14-101 (3)~~ SECTION 15-14-401.

(58) "Ward" means an individual described in ~~section 15-14-101 (4)~~ SECTION 15-14-102 (15).

SECTION 9. 15-14-606, Colorado Revised Statutes, is amended to read:

15-14-606. Duty - standard of care - record-keeping - exoneration. Unless otherwise agreed by the principal and agent in the agency instrument, an agent is under no duty to exercise the powers granted by the agency or to assume control of or responsibility for any of the principal's property, care, or affairs, regardless of the principal's physical or mental condition. Whenever the agent exercises the powers granted by the agency, the agent shall use due care to act in the best interests of the principal in accordance with the terms of the agency. Any agent who acts under an agency instrument shall be liable for any breach of legal duty owed by the agent to the principal under Colorado law. The agent shall keep a record of all receipts, disbursements, and significant actions taken under the agency. The agent shall not be liable for any loss due to the act or default of any other person. When exercising any powers under an agency during any period of disability of the principal, the agent shall be held to the standard of care of a fiduciary as specified in sections ~~15-14-417~~ and 15-16-302 AND 15-14-418.

SECTION 10. 15-14-607 (2), Colorado Revised Statutes, is amended to read:

15-14-607. Reliance on an agency instrument. (2) Any person to whom the agent, operating under a duly notarized agency instrument, communicates a direction that is in accordance with the terms of the agency instrument shall comply with such direction. Any person who arbitrarily or without reasonable cause fails to comply with such direction shall be subject to the costs, expenses, and reasonable attorney fees required to appoint a conservator for the principal, to obtain a declaratory judgment, or to obtain an order pursuant to ~~section 15-14-409~~ SECTION 15-14-412. This subsection (2) shall not apply to the sale, transfer, encumbrance, or conveyance of real property.

SECTION 11. 15-16-101 (5), Colorado Revised Statutes, is amended to read:

15-16-101. Duty to register trusts. (5) The provisions of this part 1 shall not apply to any trust created under ~~sections 15-14-409.5 and 15-14-409.6~~ SECTIONS 15-14-412.5 AND 15-14-412.6.

SECTION 12. 26-4-506.5 (3) (a) (V) and (7), Colorado Revised Statutes, are amended to read:

26-4-506.5. Court-approved trusts - transfer of property for persons seeking medical assistance for nursing home care - undue hardship. (3) (a) If a person who applies for medical assistance for nursing home care would be deemed ineligible for assistance as a result of deeming a court-approved trust established for the applicant as a medicaid qualifying trust or as a result of deeming property in the court-approved trust as an improper transfer of assets, the person's application shall, nonetheless, be treated as a case of undue hardship and the person shall be eligible for medical assistance for said care if the establishment of the court-approved trust meets the following criteria:

(V) The trust shall not be subject to modification by the beneficiary or the trustee unless otherwise provided by this section or ~~section 15-14-409.5~~ SECTION 15-14-412.5, C.R.S.

(7) This section shall apply to trusts established or transfers of property made prior to July 1, 1994. The provisions set forth in ~~sections 15-14-409.6 to 15-14-409.9~~ SECTIONS 15-14-412.6 TO 15-14-412.9, C.R.S., and any rules adopted by the medical services board pursuant to section 26-4-506.6 shall apply to trusts established or property transferred on or after that date.

SECTION 13. The introductory portion to 26-4-506.6 (1), Colorado Revised Statutes, is amended to read:

26-4-506.6. Court-approved trust - transfer of property for persons seeking medical assistance - rule-making authority for trusts created on or after July 1, 1994 - undue hardship. (1) The medical services board shall adopt such rules as are necessary with respect to trusts established pursuant to ~~sections 15-14-409.6 to 15-14-409.9~~ SECTIONS 15-14-412.6 TO 15-14-412.9, C.R.S. The medical services board shall adopt rules that address, but need not be limited to, the following:

SECTION 14. 27-10-103 (1), Colorado Revised Statutes, is amended to read:

27-10-103. Voluntary applications for mental health services. (1) Nothing in this article shall be construed in any way as limiting the right of any person to make voluntary application at any time to any public or private agency or professional person for mental health services, either by direct application in person or by referral from any other public or private agency or professional person. Subject to ~~section 15-14-312 (1) (a)~~ SECTION 15-14-316 (4), C.R.S., a ward, as defined in ~~section 15-14-101 (4)~~ SECTION 15-14-102 (15), C.R.S., may be admitted to hospital or institutional care and treatment for mental illness by consent of the guardian for so long as the ward agrees to such care and treatment. Within ten days of any such admission of the ward for such hospital or institutional care and treatment, the guardian shall notify in writing the court which appointed the guardian of the admission.

SECTION 15. 30-10-105 (4) (a), Colorado Revised Statutes, is amended to read:

30-10-105. When office becomes vacant. (4) (a) Any county officer shall be

declared incapacitated when there is a judicial determination that he is unable to routinely and fully carry out the responsibilities of his office by virtue of mental or physical illness or disability and he has been so unable for a continuous period of not less than six months immediately preceding the finding of incapacity. The quantum of proof required, the procedures to be followed, and the rights reserved to the subject of any determination of incapacity under this subsection (4) shall be those specified for the appointment of guardians in ~~section 15-14-303~~ PART 3 OF ARTICLE 14 OF TITLE 15, C.R.S., to the extent applicable.

SECTION 16. 38-10-111.5, Colorado Revised Statutes, is amended to read:

38-10-111.5. Trusts to establish or maintain eligibility for certain public assistance void - exceptions. Any trust established by or for a person, that consists of the person's individual assets, income, or property of any kind, shall be void for the purpose of establishing or maintaining eligibility for any public assistance as provided by article 2 of title 26, C.R.S., or medical assistance as provided by article 4 of title 26, C.R.S., unless the trust is established in accordance with the provisions of ~~sections 15-14-409.6 to 15-14-409.9~~ SECTIONS 15-14-412.6 TO 15-14-412.9, C.R.S.

SECTION 17. Effective date - applicability. This act shall take effect January 1, 2001, and shall apply to appointments of guardians or conservators made on or after said date.

SECTION 18. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 1, 2000